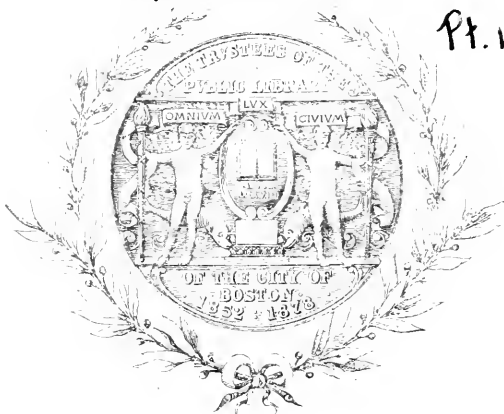


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LABOR RELATIONS

HEARINGS

BEFORE THE

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

EIGHTY-FIRST CONGRESS

FIRST SESSION

ON

S. 249

A BILL TO DIMINISH THE CAUSES OF LABOR DISPUTES
BURDENING OR OBSTRUCTING INTERSTATE
AND FOREIGN COMMERCE, AND
FOR OTHER PURPOSES

PART 4

FEBRUARY 14, 15, 16, AND 17, 1949

Printed for the use of the Committee on Labor and Public Welfare



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UNITED STATES
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WASHINGTON : 1949

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LABOR RELATIONS

MONDAY, FEBRUARY 14, 1949

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D. C.

The committee met, pursuant to adjournment, at 9:30 a. m. in the committee room, United States Capitol, Hon. Elbert D. Thomas (chairman) presiding.

Present: Senators Thomas, Murray, Pepper, Hill, Neely, Douglas, Humphrey, Withers, Taft, Smith of New Jersey, Morse, and Donnell.

The CHAIRMAN. Senator Morse has some questions that he wishes to put to Mr. Denham.

STATEMENT OF HON. ROBERT N. DENHAM, GENERAL COUNSEL, NATIONAL LABOR RELATIONS BOARD—Resumed

Senator MORSE. Mr. Denham, I am going to complete my examination of you this morning very briefly, and in the interest of saving time I have certain statements that I am going to read into the record, and then you can comment upon the statements because some of them will be recapitulations of what, I am sure, you have already expressed in the record.

I agree with the view expressed in your opening statement to the effect that public confidence in the administration of the present statute or any law relating to labor relations depends, in a large part, on whether the public has confidence in the personnel and the field offices of the agency.

As I understand the Taft-Hartley law, you have final authority with regard to the issuance of unfair-labor-practice complaints, and you also have complete charge of the field staff. Consequently, any decision by a regional director not to proceed with the charge, which I understand is a decision frequently made after consultation with you or members of your Washington staff, cannot be appealed to anyone but you. In effect, it seems to me that you are sitting in judgment on a matter which you and your staff have previously decided.

On the other hand, under the Wagner Act an appeal could be taken to the Board in Washington from a determination in the field office not to issue a complaint, and in that respect a review could be had by persons who had not previously acted upon the case. Isn't it true, therefore, along the lines of Senator Pepper's question the other night, that your discretion in deciding not to proceed with an unfair-labor-practice charge is completely uncontrolled, at least in the sense that it is not subject to review?

Mr. DENHAM. I beg your pardon?

Senator MORSE. Is it not true—

Mr. DENHAM. I might say this: Your statement, Senator Morse, with reference to the decisions of the regional directors not to proceed on a charge is seldom taken after advice or after consultation with the Washington office. They have a very high degree of autonomy and usually act without such advice or consultation.

In the early days during the first 6 or 7 or 8 months of the administration of the Taft-Hartley law, in order that we would get our policy lines completely straight, they were required to submit all their cases to Washington for advice as to proceeding, and then rather early in the game there was restored to them that same autonomy that they have always had with reference to the issuance of complaints which would come under what we call the Wagner Act provisions of the Taft-Hartley Act.

Senator MORSE. It is true, is it not, Mr. Denham, that you still issue bulletins to the field offices setting forth statements of general counsel office policy and statements as to procedures in regard to specific subject matters that you expect the field offices to follow?

Mr. DENHAM. Oh, yes. We issue general field letters which are procedural instructions to the offices.

Then we issue periodically—not periodically, but intermittently—policy and appeals matters which contain summaries of the more significant decisions that have been made in the general counsel's office. That is either in connection with appeal cases or those cases which come in to us for advice.

There are some that do come in that way.

Senator MORSE. Well, let us return, if you will permit me to—

Mr. DENHAM. Senator Pepper was entirely correct, and so are you, that when the general counsel has determined that a complaint shall not issue, there is no appeal from it any more than there was an appeal from a similar decision from the Board in the old days.

Senator MORSE. Well, that is the point I wanted just to get into the record, not to argue the matter with you, but to get the statement of fact into the record.

Mr. DENHAM. That is a correct statement.

Senator MORSE. Mr. Chairman, when Mr. Herzog testified the other day I asked him to furnish certain material regarding the relationship between the Board and the general counsel concerning the question of the exercise of jurisdiction. Mr. Herzog has supplied me with copies of the memoranda exchanged between the Board and the general counsel, and I should like to offer them for inclusion in the record at this point, together with Mr. Herzog's covering letter to me, and ask certain questions thereon.

Therefore, Mr. Chairman, I offer for the record a letter dated February 4, 1949, addressed to me by Mr. Herzog.

I offer a copy of an exhibit labeled "Exhibit A-1," a memorandum to Mr. Denham from Mr. Herzog, dated January 26, 1949.

I offer exhibit A-2, a memorandum of January 7, 1949, to Mr. Denham by members of the Board, said exhibit initialed by members of the National Labor Relations Board. Exhibit A-3, a memorandum to the Board by Mr. Herzog, to his colleagues on the Board. Exhibit A-4, a copy of a memorandum from Mr. Denham to the Board dated—well, it is dated, but the first sentence reads, "I have the Board's memorandum of December 23, 1948, on the above subject."

Mr. DENHAM. I may say, Senator Morse, that the original of that was dated December 30, 1948.

Senator MORSE. December 30?

Mr. DENHAM. Yes; I have a carbon.

Senator MORSE. I am inserting the date on it, December 30, 1948.

The CHAIRMAN. Without objection, they will be received.

Senator MORSE. I will identify the rest of these. Exhibit A-5, which is a memorandum of January 3, 1949, from Mr. Herzog to Mr. Denham. Exhibit A-6, a memorandum of December 23, 1948, addressed by the Board to the general counsel. Exhibit A-7, a memorandum of November 29, 1948, addressed by Mr. Herzog to his colleagues on the Board.

(The documents referred to follow:)

NATIONAL LABOR RELATIONS BOARD,
Washington 25, D. C., February 4, 1949.

HON. WAYNE MORSE,
United States Senate, Washington, D. C.

DEAR SENATOR: When I testified before the Senate committee on February 2, you asked (at pp. 280 and 355-356 of the typewritten transcript) that I furnish you with certain material concerning the relationship between the Board and the general counsel under the Labor-Management Relations Act, in connection with your inquiries about the effectiveness of the separation of powers promulgated by that statute. It has not yet been possible to collect all the material you have requested, but we will endeavor to do so during the next few days.

Meanwhile, I transmit herewith, pursuant to your request at page 356, the full exchange of memoranda between the Board members and the general counsel concerning the question of exercise of jurisdiction. I believe you said that you intended to include that material in the record of the proceedings. I would therefore appreciate your transmitting it, together with a copy of this letter, to the clerk of the committee for inclusion at the proper place in the printed record. I am sending it directly to you now on the assumption that you wanted to examine the material yourself in the first instance.

Very sincerely yours,

PAUL M. HERZOG, *Chairman*.

EXHIBIT A-1

JANUARY 26, 1949.

ROBERT N. DENHAM, *General Counsel*.
PAUL M. HERZOG, *Chairman*.

EXERCISE OF JURISDICTION IN REPRESENTATION CASES

The Board members would appreciate being advised promptly of your position on the questions asked in our memorandum of December 23 and especially in the second paragraph of the one of January 7. We refer, of course, to modification of your earlier instructions to the regions on the exercise of jurisdiction in R cases.

P. M. H.

EXHIBIT A-2

JANUARY 7, 1949.

ROBERT N. DENHAM, *General Counsel*.
The BOARD MEMBERS.

EXERCISE OF JURISDICTION IN REPRESENTATION CASES

The Board members are in receipt of your recent memorandum in response to ours of December 23. As indicated in our own memorandum, we are aware of the difficulties that will occasionally arise where border-line cases are involved

or where Board policy is evolving or may still appear unclear. One efficient device in these situations might be to have regional "requests for advice" in border-line cases cleared with the Board (via the executive secretary's office) before authority to proceed to hearing is finally granted by the general counsel's office. The Board would thus assume part of the responsibility for the initial decision to go, or not to go, to hearing in order to implement its own policy. We would be glad to discuss this and other aspects of the problem with you next week.

The fact remains that there are areas in which Board policy is clear, and in which the general counsel can follow it without difficulty if he desires to do so. Before initiating discussion, therefore, we would appreciate receiving written advice concerning your position on the issue raised by the hypothetical case mentioned on the second page of our memorandum of December 23. In other words, where the Board has stated that it will not exercise jurisdiction in a particular industry because of its character or because the inflow and/or outflow are too small, in amount or percentage, does the general counsel intend to instruct the regions or decline to exercise jurisdiction over similar companies where the amount or percentage is even less than in the case already decided by the Board?

This would require the requested modification of that part of revised field letter No. 52 which in effect instructs the regions to disregard Board precedent unless the same company is involved. This goes to a question of principle with respect to the authority of the Board in representation cases. It does not involve the technical difficulties discussed in your memorandum and in the first paragraph of this one. It should be resolved first.

P. M. H.
J. M. H.
J. J. R., Jr.
A. M.
J. C. G.

EXHIBIT A-3

JANUARY 5, 1949.

MESSRS. HOUSTON, MURDOCK, REYNOLDS, GRAY.
PAUL M. HERZOG.

You have all received the general counsel's memorandum of yesterday in response to ours about jurisdiction in R cases. He evidently desires to confer on the subject. When would you like to do so? I suggest Thursday afternoon or sometime Friday.

P. M. H.

EXHIBIT A-4

DECEMBER 30, 1948.

The BOARD,
ROBERT N. DENHAM,
General Counsel.

JURISDICTION

I have the Board's memorandum of December 23, 1948, on the above subject.

In dealing with matters which the Board delegated to the general counsel in its memorandum agreement of August, 1947, the general counsel has recognized his duty to instruct the various regional offices to apply and follow the ascertainable and definite principles which the Board may have established. With respect to the matter of jurisdiction, however, a study of the cases handed down by the Board discloses rather patently that on this question no such ascertainable or definite principles have been established by which the various regional offices may be guided.

All the representation cases which thus far have been dismissed by the Board on the jurisdiction question were cases in which jurisdiction apparently existed as a matter of law. These cases were dismissed by the Board because it did not see fit to make the processes of the agency available to the parties where the business involved was essentially local in character. The cases taken singly or as a group, however, have failed to develop any discernible pattern which make it possible accurately to define the words "essentially local in character." More-

over, it is clear from the Board's decisions that the fact that a business is essentially local does not necessarily mean the Board will not process a case involving it. Because of these facts, I am unable to determine in advance the probable decisions of the Board in particular cases wherein it is contended that the business involved is essentially local in character although admittedly it affects commerce within the meaning of the act. It follows, of course, that it would be unjust for me to expect the regional directors to do so.

In addition to the difficulties raised by the background of inconsistency created by the Board's decision on the matter of jurisdiction in representation cases, a further important difficulty presents itself. When it comes to the matter of issuing complaints involving unfair labor practices, the general counsel is of the opinion that it is his legal responsibility to determine whether the issuance of complaints will "effectuate the policies of the act." As I have heretofore announced, I am unwilling to assume that it would effectuate the policies of the amended act for the general counsel to process some cases within the jurisdictional area of the act, but refuse to process other cases of equal merit. Even were the general counsel to assume that the statute warranted such a course, it seems obvious that to avoid a charge of being arbitrary and capricious the general counsel would necessarily have to select cases to be processed on the basis of a clearly defined and easily ascertainable statement of policy. Otherwise, innumerable employers and labor unions would be unable to foretell the effect of the statute upon their dealings with one another except at the expense of time-consuming and expensive litigation. In view of these considerations, the general counsel's office has consistently followed the policy of processing all meritorious unfair labor practice cases which come within the purview of the act as the term "affecting commerce" applies. An impossible situation would exist where regional directors expected to advise parties of their refusal to handle representation matters involving a particular business because, in their opinion, the processing of such a case would not effectuate the policies of the act, but at the same time advise these parties that meritorious unfair labor practice charges involving the same business would be processed. Obviously they would be unable to explain this to the public in general on any basis of logic or law.

I would like to state that in my opinion a full discussion of this matter between the Board and the general counsel seems desirable to insure that each completely understands the many subsidiary problems which the question presents. It would seem extremely unfortunate if mere lack of understanding should create a situation making it impossible for our respective offices to function efficiently for the public interest.

R. N. D.

EXHIBIT A-5

JANUARY 3, 1949.

ROBERT N. DENHAM, *General Counsel*.
PAUL M. HERZOG, *Chairman*.

THE EXERCISE OF JURISDICTION IN REPRESENTATION CASES

The Board members inquire whether you desire to confer on the subject covered in our memorandum of December 23. If not, would you please advise us in writing this week what action is being taken on the Board's request that revised field letter No. 52 be modified to conform with Board policy in representation cases.

P. M. H.

EXHIBIT A-6

DECEMBER 23, 1948.

The GENERAL COUNSEL.
The BOARD.

ASSERTION OF JURISDICTION IN REPRESENTATION CASES

The Board has noted your G. C. field letter No. 52 (revised) of November 23, 1948. The sixth paragraph thereof instructs the regional offices as follows:
"Where representation cases involve different parties, but industries similar to those with respect to which the Board, notwithstanding the existence of statu-

tory jurisdiction, may have denied the processes of the act because, 'it would not effectuate the policies of the act,' such cases will be processed at the regional level in regular manner."

This particular instruction relates to representation cases which are handled by the general counsel and the regional offices entirely under powers delegated by the Board pursuant to its delegation memorandum of August 1947. In the opinion of the Board, it is the duty of the regional offices and of the general counsel to apply principles announced by the Board in prior formal decisions while representation cases are pending at the regional level. The quoted paragraph appears to be an instruction to the regional offices to disregard such Board decisions where issues concerning the exercise of jurisdiction are involved.

In exercising delegated powers in representation matters, the office of the general counsel is bound by Board precedent concerning the exercise of jurisdiction precisely as it is bound, and has regarded itself as bound, where other contested issues—such as unit and contract bar—are the subject of consideration. The instruction as written is inconsistent with the purposes of the delegation agreement, does violence to that part of the statutory scheme which gives the Board final authority at all stages in representation cases, and is certain to bring about a waste of public funds. There is no possible justification for processing a representation case to hearing and decision when it is clear from the outset that the Board will ultimately decline to exercise jurisdiction.

Of course, petitions will continue to be filed in industries in which the Board has dismissed previous petitions because of the local character of the enterprises concerned. In some such instances it will appear likely that the Board will desire to exercise jurisdiction over the companies involved in the later petitions, if the commerce facts are more persuasive. We naturally have no objection to having the regions process such cases through the hearing stage, especially where prior decisions have not drawn a sharp line of demarcation. In other cases, requests for advice to Washington may be found desirable.

But where the Board's policy is clear, and the enterprise involved has less commerce features than one in a case previously dismissed by the Board, the regional director should not issue notice of hearing. The revised field letter appears to disregard this principle, and to suggest that unless precisely "the same parties" are involved, Board precedent is to be disregarded. We construe it to mean, for example, that even if the Board has declined to exercise jurisdiction over an employer in an industry whose inflow from another State was \$20,000 a year and whose outflow in commerce was \$5,000, the general counsel intends the region to proceed to hear another case involving different parties in the same industry where the inflow and outflow are at the lesser figures of \$10,000 and \$2,000, respectively.

Will you please advise us whether this correctly represents the intention of the general counsel? If so, it is unacceptable to the Board. If early discussion is desired, please advise us. If not, the general counsel is hereby requested to modify revised field letter No. 52 at an early date, so as to render it consistent with Board policy, and to clear the modified language with the Board before it is circulated to the regional offices.

P. M. H.
J. M. H.
J. J. R.
A. M.
J. C. G.

EXHIBIT A-7

NOVEMBER 29, 1948.

The BOARD.

PAUL M. HERZOG, *Chairman.*

Jurisdiction.

Do you desire to take any action or have any conferences with the general counsel with respect to the sixth paragraph of his revised field letter No. 52, in which he instructs the regions to proceed to assert jurisdiction in industries similar to those with respect to which the Board may have declined to exercise jurisdiction?

I believe that this issue is of a sufficiently special character to warrant consideration, despite our informal decision recently not to seek to disturb the delegation statement at this particular time.

P. M. H.

Senator MORSE. Now, in regard to these various exhibits, Mr. Denham, as I understand it, you instructed—

Senator PEPPER. You do not have any copies of these?

Senator MORSE. They are the only copies, and I understand the chairman has admitted these in the record.

As I understand it, Mr. Denham, you instructed the regional offices in your field letter No. 52 of November 23, 1948, that jurisdiction should be asserted in cases involving industries similar to those in which the Board had already decided not to exercise jurisdiction, provided only that the cases do not involve exactly the same parties as were involved in the case before the Board. Is that true?

Mr. DENHAM. That is right.

Senator MORSE. In the memorandum of December 23 from the Board members to you, which is included in the material that I have just inserted into the record—

Mr. DENHAM. That, by the way, was the first one that came from the Board to me.

Senator MORSE. Yes.

In order that we may be perfectly certain that we know which one we are talking about, that one is identified as exhibit A6 in the record, the Board asked you whether it was your intention to assert jurisdiction in the case involving different parties than those that were involved before the Board but in the same industry, where both the inflow and the outflow commerce figures were less than those involved in the case in which the Board refused to assert jurisdiction.

Now, I note that in your memorandum replying to the Board's inquiry you do not reply to this inquiry of the Board. The Board members, in their memorandum of January 7, call your attention to this fact, and say that they would appreciate receiving written advice concerning your position on the hypothetical case mentioned in their memorandum of December 23.

In their latest communication to you, dated January 26, I note that the Board members reiterate that they would appreciate being advised promptly of your position on this matter. Have you replied to the Board's memorandum of January 26?

Mr. DENHAM. A memorandum has been in the course of preparation, Senator. It has not yet gone forward. I have, as you know, probably not been able to give as much attention to the affairs of the office that I would like to in the past 2 weeks, and such a memorandum has been prepared and is on my desk. I have gone through it. I am not satisfied with it, and I want to revise it before I send it forward.

Senator DONNELL. January 26; was that January 26, 1949, the present year?

Senator MORSE. 1949; the present year.

I judge from that reply, Mr. Denham, that you are not ready this morning then to advise this committee as to what position the general counsel's office intends to take with respect to this inquiry of the Board of last December.

Mr. DENHAM. I want to say this in connection with that matter: I would like to invite the committee's attention to my letter or memorandum of December 30 to the Board.

Senator MORSE. That is exhibit A4.

Senator DONNELL. That is December 30, 1948?

Senator MORSE. December 30, 1948, identified in this record as exhibit A4.

Senator DONNELL. Yes.

Mr. DENHAM. I may say in connection with that that in my letter of December 30 I have called attention to the fact that, under the court decisions, the term "affecting commerce" the important thing is not the amount or volume of business flowing one way or the other but rather the effect of the business on commerce. The Supreme Court has been rather clear on that.

Now, unfortunately, in the handling of the question, not of jurisdiction, but whether parties will be given the privilege of utilizing the processes of the act, the Board has never taken or maintained a consistent position. There has never been a pattern that anyone could follow, nor any that I could follow, nor one that I could expect my regional directors to follow.

In one of the later memorandums from the Board they suggested that it might be a good idea to send these questions in for advice when the regional director runs into a situation that he is not sure about, and it is on that basis that I have been trying to work out a satisfactory memorandum of devising some way by which we can maintain the lines of authority to the field, and at the same time maintain the position that the Board wants to maintain with reference to the area in which it will process cases coming before it.

Now, I have before me a statement, and this has been in preparation as a constant running account of jurisdictional questions affecting the businesses within the same industry, in one of which the Board will process a case, and in the next one it will refuse to process a case.

On the surface you would think you would see little difference between such businesses, and I cannot outguess the Board.

Senator TAFT. What are these? You mean fringe cases—bakeries, laundries, retail stores, that kind of business?

Mr. DENHAM. If you want to call them fringe cases, Senator, that is what they are. But building contractors, building suppliers, bus companies, chain groceries, where the industry does do millions of dollars' worth of business, that come in over State lines and affect commerce definitely, but where the individual business enterprises themselves are small, in some of those the Board will take and some of those they will not take.

The outstanding general conditions are identical. I have one case in mind up in New York shortly after the first case which came out which shocked us rather considerably, and that was the Hom-Ond case that I mentioned when I appeared before the joint committee in June. There were three-quarters of a million dollars or so of merchandise handled by this chain of some 13 or 14 groceries in the State of Texas that came in across State lines, originated outside of the State.

I think the indications are that it came into the warehouse, was taken out of the warehouse to the stores, distributed locally in the cities in the State of Texas.

In that case the Board said:

Why, this is a business essentially local, and we are not going to handle it. We won't entertain this petition for representation.

Within a few days they ran into a case up in New York City of one of these automobile accessory concerns which did about \$100,000

worth of business a year, brought in all of their stuff, practically all of their stuff, from outside, sold all of it over the counter locally in New York City, and in that case the Board found that there was ground for processing the case.

SENATOR MORSE. Is it not true, Mr. Denham, if we were not in this situation of divided authority, if we did not have this division of authority and jurisdiction between the general counsel and the Board, that the type of conflict that these memoranda bring out between your office and the Board would, in fact, not exist, because the Board would render the decision?

MR. DENHAM. You are very right about that, Senator.

SENATOR MORSE. That is all I seek to point out.

MR. DENHAM. Except, if I may defend that position for a moment, and I think I am entitled to do that——

SENATOR MORSE. I will be glad to hear it.

MR. DENHAM. This act is one which has many, many more facets to it than the Wagner Act had.

These decisions by the Board have to do solely with matters pertaining to matters of representation.

SENATOR MORSE. That is right.

MR. DENHAM. They do not have to do with unfair labor practices, and I can only repeat what I said to the joint committee 6 or 7 months ago: If one of the employees in that chain of Hom-Ond groceries in Texas, of whom there must be 60 or 70 or 80, in 13 stores, were to be called into the boss' office, and said, "Listen, you tried to start a union here; the Board has not taken jurisdiction and won't give you representation. You are fired because you tried to start a union," and he came into my Fort Worth office and said, "I want to file a charge because I have been discriminatorily discharged," I would entertain the charge and process it, and I would insist upon the Board carrying it through to a decision, and I think I would be right in it.

That man is entitled to that. The union, if it represents a majority of their employees, is entitled to bargain.

SENATOR MORSE. It is not true though, Mr. Denham, that this difference in policy or attitude over these questions of jurisdiction between the general counsel's office and the Board does result, and is likely to result, in a situation where the union might be subject to an unfair labor practice complaint by your office, but not entitled to an election as far as the Board is concerned?

MR. DENHAM. Very well, Senator, that is of course possible.

SENATOR MORSE. That is all I seek to draw out.

MR. DENHAM. Now, then——

SENATOR MORSE. That is all I want, Mr. Denham.

MR. DENHAM. But I am thinking about the propriety of that.

SENATOR MORSE. I am not interested in that.

MR. DENHAM. Well, I am very much interested in that. It is my job to administer the law.

SENATOR MORSE. The purpose of my examination is only to get the facts into the record as to what the results, some of the results, of this difference in jurisdiction——

MR. DENHAM. Then let me carry on with respect to the results in different——

Senator MORSE. I am sorry, I have the answer I seek, and that is all I am going to ask you about that.

Now, Mr. Denham, I have before me your testimony at hearings before the subcommittee of the Committee on Education and Labor and of the Committee on Expenditures in the Executive Departments, House of Representatives, Eightieth Congress, May 7, 1948, which raises questions in regard to your interpretation as to what may fall under the subject matter "interstate commerce."

You are familiar, of course, with this testimony?

Mr. DENHAM. I recall it, yes; I recall that I gave testimony. I have not read it for some months.

Senator MORSE. Yes.

I seek, Mr. Chairman, only again to insert in this record certain factual material, and I ask permission to have incorporated in the record at this point Mr. Denham's testimony before the hearings previously referred to by me, May 7, 1948.

(The hearing containing the testimony referred to is as follows:)

INVESTIGATION TO ASCERTAIN SCOPE OF INTERPRETATION BY GENERAL COUNSEL OF NATIONAL LABOR RELATIONS BOARD OF THE TERM "AFFECTING COMMERCE," AS USED IN THE LABOR-MANAGEMENT RELATIONS ACT, 1947

Washington, D. C., Friday, May 7, 1948, House of Representatives, Committee on Expenditures in the Executive Departments, Special Subcommittee

The subcommittee met at 10:15 a. m., Hon. Clare E. Hoffman, chairman of the Committee on Expenditures in the Executive Departments, presiding.

Present: Representatives Clare E. Hoffman, Ralph Harvey, and J. Frank Wilson (Committee on Expenditures in the Executive Departments); and Ralph W. Gwinn and Walter E. Brehm (Committee on Education and Labor.)

The CHAIRMAN. Gentlemen, we will come to order.

Complaint has been made to the Committee on Expenditures in the Executive Departments that the term "affecting commerce" in the Taft-Hartley Act was about to be construed to include hotels, restaurants, laundries, and, as a matter of fact, all small businesses in the various States and communities, on the theory that that term was all-inclusive; that if it indirectly affected commerce or might in the future indirectly affect commerce, that it was the intent of the Congress in writing that law to—perhaps it is too much to say "wipe out" the distinction between intra and interstate commerce, but, in any event, to narrow the gap between the two, if there was any gap.

The first witness will be Mr. Brown.

I might say for the record that yesterday I called Mr. Denham, general counsel for the Mediation Service, and told him about this complaint having been made. He said he would be glad to appear; that he could not appear this morning but would appear this afternoon.

He said that Mr. Brown, who was sitting at his desk at the moment, would be glad to come over. I said we would be glad to hear him.

STATEMENT OF J. W. BROWN, GENERAL COUNSEL, HOTEL AND RESTAURANT EMPLOYEES AND BARTENDERS INTERNATIONAL UNION

Mr. BROWN. I am J. W. Brown, general counsel for the Hotel and Restaurant Employees and Bartenders International Union, Cincinnati, Ohio.

The CHAIRMAN. Will you give your address, please?

Mr. BROWN. 1406 Fountain Square Building.

As you stated, Congressman, I was in Mr. Denham's office when you called, discussing the identical problem that is before this committee this morning. I came to see Mr. Denham, considerably alarmed by the extension of jurisdiction of the Labor Board in the small restaurant and hotel field.

For years we have tried under the Wagner Act to get the Board to take jurisdiction in some of the larger establishments, such as hotels and large restaurants;

and we have failed. The Board has consistently refused to take jurisdiction over hotels and restaurants.

In many cases the Labor Board has said that it would not effectuate the purposes of the act to take jurisdiction. They dodged the question of whether jurisdiction could be taken.

The CHAIRMAN. I would like to permit you to proceed, but when you make a statement like the next to the last one there, where you say "in many cases," would you cite some of those cases so that we may examine them?

Mr. BROWN. Unfortunately they are not recorded cases. They never reached that stage. A petition would be filed for representation in a particular hotel or restaurant, and the petition would be rejected by the Board. Appeals were generally not taken. There was no effective manner of reversing the Board under its rules, and so the questions would die in the first instance.

Mr. WILSON. Mr. Brown, may I ask a question right there? Do you remember the names of any hotel employees of any specific and particular hotels that did file applications?

Mr. BROWN. I can supply them, but I unfortunately do not have that material with me.

The CHAIRMAN. Will you do that by letter?

Mr. BROWN. I will be glad to. You see, I did not come prepared to testify here. It was only a last-minute idea.

Mr. WILSON. Yes; I understand.

Mr. BROWN. Now, after having that situation for years, we now come to a new law which has added something to the old Wagner Act but has not changed the definition of its coverage. That is, "affecting commerce" is still the phrase which decides whether or not the Board will take jurisdiction.

Now, what affects commerce? In my discussion with Mr. Denham yesterday, he informed me that his department was inclined to view everything as affecting commerce if there was any particular matter in the business that went through interstate commerce at any time.

Let me give you an example of it.

The CHAIRMAN. Are you giving this now as one which he cited?

Mr. BROWN. Yes; I am giving you an example that we discussed.

Take the smallest establishment in the field that I am concerned with—the little tavern—where there is a single bartender employed. There is an owner and perhaps one bartender. Suppose it were in a field where they only sell beer and wine. The beer is manufactured locally, but the hops were shipped in from California—or say another State.

Mr. Denham's view is that he is inclined to feel that since the hops were shipped in, if there were a labor dispute in that particular tavern, the shipment of hops would be obstructed or at least would cease, and there's is something affecting commerce.

The CHAIRMAN. You say "hops" in this tavern. Does the tavern-keeper make the beer?

Mr. BROWN. No; he purchases the beer, but the ingredients that go into the beer are shipped in interstate commerce to the manufacturer in his own community. Thus, with a definition of that sort, every industry that you can think of affects interstate commerce.

The CHAIRMAN. That is to say, then, that if a hotel man bought a pie, if the eggs in that pie came from Michigan and the pie was sold down here in Washington, that would be interstate commerce? Is that it?

Mr. BROWN. That is the general tendency under this term in the present administration of the law.

The CHAIRMAN. Then, there would be no distinction between interstate and intrastate commerce?

Mr. BROWN. Exactly what I would say. I do not believe it was ever the intention of the framers of that law to extend it that far, and it never has been extended that far under the Wagner Act.

Now, look at the situation of labor unions. You have heard many complaints about the fairness and unfairness of the Taft-Hartley Act. For years we have not been able to get the Board to take jurisdiction in these cases, and we have reconciled ourselves to it. And that was when the law was primarily for the benefit of labor unions.

Now, there are certain features of the law that are not for the benefit of, but are restrictions on, labor unions. Now, the Board seems to be inclined—not the Board, but the administration under the act—to take jurisdiction of everything.

The CHAIRMAN. Which you think would be detrimental to labor unions?

Mr. BROWN. Yes. I think that the administration should not go as far as the small tavern, the small restaurant, the purely local enterprise. The Board in many of its decisions mentioned local enterprises—an establishment whose business was local in nature—and definitely threw those cases out.

There were the Consolidated-Vultee cases—one in which that occurred. There was a restaurant serving employees of the Consolidated-Vultee Aircraft Co. That company purchased thousands of dollars' worth of material outside the State of California. Its operation was a California operation though.

This was a commissary for the Consolidated-Vultee; yet the Board held in that particular case that its operation was local. The mere fact that it did purchase some of its material in interstate commerce did not mean that the Board had jurisdiction, because the operation was essentially local.

But now, under the new law, now that there are restrictions being applied to labor unions—and, of course, I am not insinuating that that is the reason for the extension; I will come to the reason a little bit later—you can see the reaction of labor unions to this extension of jurisdiction. Suddenly many establishments which were not covered by the law are found to be covered.

Now, look at our own union's position.

The CHAIRMAN. Let me go back there a moment. Then, under this present view, as you got it yesterday from Judge Denham, in every State where any business used coal, which was not produced in that State, for either power or heat, it would be engaged in interstate commerce?

Mr. BROWN. That is the impression I gathered from Mr. Denham.

The CHAIRMAN. I would say this: That it would be a very happy situation for the Congress if small business and the unions are agreed on this attitude. That will enable us once to oppose an administrative ruling without having one or the other against it.

Mr. HARVEY. I was thinking, Mr. Chairman, this would be a most unusual situation.

The CHAIRMAN. Go ahead, Mr. Brown.

Mr. BROWN. Now you see our position with regard to trying to comply with the law. When the Taft-Hartley Act was passed, we had to advise our local unions as to whether or not their particular activities were covered by the law. All we had to go on was the precedents that had been established under the Wagner Act.

But the term "affecting commerce," the description of the jurisdiction requirements, had been unchanged in the new law. Therefore, when we advised our local unions, we said to them, "The coverage under the law is identical. That part of the phraseology has not been changed."

Now, having advised our local unions that the coverage under the Taft-Hartley Act was no different than it had been under the Wagner Act, our local unions proceeded to enter into contracts with hotels, restaurants, and taverns in the same manner as they always have.

Now, generally, our contracts are not closed-shop; they are union-shop. That is by nature of the industry. We have such a big turn-over, and it is frequently impossible for us to supply replacement labor, so, generally, we agree with the industry that they will hire their own people if we cannot supply them. After a certain probationary period they join the union. That is not an absolute rule, but that is the general practice in this industry.

However, in some instances our probationary period does not conform to that of the Taft-Hartley Act. In some instances there are positive requirements that the employer will first call the union for help and then supply his own help if he cannot get it from the union. That is not in conformity with the Taft-Hartley Act.

Many other provisions of our contracts do not conform. Believing that we were not required to conform, we continued along that line.

We are now faced with the prospect of being in violation throughout the United States—not only the unions, the local unions, but the employers who had the same conception of the law as we did.

It is the uncertainty as to the coverage under this law that is doing the most damage. The term "affecting commerce" is too vague.

The CHAIRMAN. Do I understand, then, that without the application of the Taft-Hartley Act you get along fairly well with industry in those businesses that you represent?

Mr. BROWN. Yes.

The CHAIRMAN. So, you do not need the Taft-Hartley Act?

Mr. BROWN. We do not need the Taft-Hartley Act. I might say that very few labor unions really need the Taft-Hartley Act, Congressman.

The CHAIRMAN. That is fine with us. We may be able to cut down the personnel in the Labor Department and in the Mediation Service, too.

Mr. GWINN. Are you not in a rather difficult position here though? You do not need the Taft-Hartley Act, but you want the Wagner Act as it was. You tried to get yourself in under that and called yourself entering into interstate commerce?

Mr. BROWN. No; we are not in an ambiguous position at all.

Mr. GWINN. But you say you tried to put yourself under interstate commerce.

Mr. BROWN. Let me explain it.

The CHAIRMAN. They tried to comply, as I understood him, because it was the law.

Mr. BROWN. When the Wagner Act was passed, there was even more doubt as to its meaning than there is today. We thought that the term "affecting commerce" did include some of our operations. For instance, we thought there was some thought at the time that it covered hotels. We found out that it did not. Since then we have not bothered with the Wagner Act. That is, in this particular international union; this does not apply to other unions at all.

Mr. GWINN. But I understood you in the beginning of your statement to say that you were down here urging the Board and the counsel to let you come under it and they would not let you come under it.

Mr. BROWN. No; I was down here to try to resolve the doubts. You see, if we are required to comply with the Taft-Hartley Act we do not mind complying. We have filed our affidavits. Our financial statements have been published in our journal monthly for tens of years. We do not have to take any pains to comply with the Taft-Hartley Act. We do not mind complying with it. That does not mean that we approve of the law, but we can bear the burden of it.

The CHAIRMAN. In other words it does not impose any new duties on you that are very difficult?

Mr. BROWN. As far as the communistic affidavits and financial statements, it imposes no burdensome duties upon us. We still do not approve of them. We think it is useless effort. We have always published our financial statement, and now we publish it once more. That is what it amounts to.

The CHAIRMAN. What your position amounts to is that you do not need any law against drunkenness because you do not get drunk?

Mr. BROWN. Exactly. We do not need any law outlawing Communists, because we have a clause in our constitution which prohibits them from being members of our union.

The CHAIRMAN. And you police your organization?

Mr. BROWN. That is right.

Mr. GWINN. Then, you are not really objecting to the Taft-Hartley Act?

Mr. BROWN. We object to it in principle, and we object to its operation if it is now going to cover us. Up until now, this particular law, when it had benefits, did not cover us. Now, that it has penalties in the form of what is a secondary boycott and what is not, there is an inclination or a tendency to cover us.

I came to Washington to see Mr. Denham to resolve the doubts.

Mr. WILSON. I am interested in hearing the witness give his entire reason, because I think he is on the right track.

Mr. BROWN. You see, we did not know when I came to Washington yesterday whether or not some of our operations are covered. We still do not know. There is a tendency to cover them. We have negotiated contracts under the old principles of the law and assumed that we were not covered, by reason of the prior decisions of the Board. And now we find that we might be in violation unwittingly. And the same is true of the employer.

The CHAIRMAN. To put your position briefly, it is this, is it not: That you want the new administrative force under this Taft-Hartley Act to go along with the same interpretation that the former officials put on "affecting commerce."

Mr. BROWN. That is not exactly our position. Our position is this, Congressman: We feel that the law should be more specific as to its coverage.

The CHAIRMAN. You want a more explicit definition of interstate commerce?

Mr. BROWN. Yes.

The CHAIRMAN. What would you suggest?

Mr. BROWN. I am not prepared to write a definition of such great importance offhand, but I think that certain exemptions should be specific.

The CHAIRMAN. Would you send us one?

Mr. BROWN. I would be very happy to.

The CHAIRMAN. It has bothered us over the years.

Mr. BROWN. I think the exemptions should be specific and not vague. For instance, is a retail establishment of small operation covered or is it not? What percentage of your business must be interstate commerce in order for you to be covered?

The CHAIRMAN. We tried to write that in somewhere as to the percentage.

Mr. WILSON. That is the wage-and-hour law, not this one.

The CHAIRMAN. We debated it in the hearings on the Taft-Hartley Act.

Mr. BROWN. The percentage is not actually written in any law.

Now, another thing that disturbs us is that if there is going to be coverage under the Wagner Act and the Taft-Hartley Act, why should there not be coverage under the Fair Labor Standards Act? For instance, you have the Interstate Commerce Act, you have the Fair Labor Standards Act, and you have the Taft-Hartley Act. All three of them have different definitions of interstate commerce.

If there are going to be restrictions and controls of the labor unions under the Taft-Hartley Act, at least give us the benefits of the law under the Fair Labor Standards Act. Why shouldn't we have the minimum wage in the hotel and restaurant industry if we are going to have the penalties of the control under the Taft-Hartley Act?

That is one of the bases that we feel commends itself to those who claim that the present law is unfair. The benefits are denied to us; the penalties are applied to us.

The CHAIRMAN. Would you be satisfied if you had the same definition that is used in the administration of what you call the Fair Labor Standards Act and what I call the wage-and-hour law?

Mr. BROWN. No. I feel that that also needs rewording. I feel that there should be more specific definition of interstate commerce than is found in either of the laws. I realize it is an extremely difficult and very complex problem, but I think the exemptions should be the same. I feel that the coverage should be specific so that anybody who questions the matter can turn to the law and determine whether or not he is covered.

Now, that is our greatest problem today. We do not know what local unions and what operations of the local unions are actually covered by this present law. We thought we knew, but suddenly we find an extension that is beyond our wildest thoughts. And we are alarmed by that extension.

Mr. GWINN. Have you any Supreme Court decision that you think defines it?

Mr. BROWN. There are a number of Supreme Court decisions on this particular question, but they all touch on one or two phases of it. There is no complete definition. Well, of course, the Supreme Court would have to rewrite the law to make it specific, and the Court could not do that. The Court has only interpreted the present law as applied to certain particular cases.

Under that procedure, you will never get an exact determination of the coverage under the law. If there had been such a thing, it would not have been necessary for me to bring up this problem with Mr. Denham.

Now, I want it made clear that the position of our international union is based solely upon the problems that arise in our particular industry, that is, the hotel and restaurant industry. My statement does not apply to the conditions in other labor unions. Their problems are different. Our problem is one of an uncertainty of definition.

We would be willing to accept a lesser coverage under the act as long as it were a definite one. Or, we would be willing to accept a broader coverage as long as it were a definite one. We do not want to be in a position of violating the law because there is no way of determining whether we are covered or not.

Now, here is one illustration that shows you the seriousness of this uncertainty. In many parts of the country in recent weeks our international union has been confronted with this problem: The employer and the union will negotiate a new contract. Suddenly the employer says, "What about the Taft-Hartley Act? Aren't you required to have an election?"

The local union refers that question to the international union. The international union advises the local union on that based upon previous precedents, and that advice is usually, "No; you are not covered."

The local union then will inform us the employer insists upon compliance with the law. We have heard them say, "We believe that the employer is using this as a bargaining technique or as a subterfuge or as a stall, and we intend to strike."

Now, here is a case where this new law is actually promoting strikes by reason of the uncertainty of coverage, because—

The CHAIRMAN. Just a moment right there. Now, it would not promote strikes at all if the Board stuck to the old interpretation?

Mr. BROWN. That is right.

The CHAIRMAN. Then, it is not the law; it is the new interpretation the Board is putting on it.

Mr. BROWN. It is not the Board though that is making the interpretations.

The CHAIRMAN. Who is?

Mr. BROWN. It is Mr. Denham's office.

The CHAIRMAN. You are right about that.

Mr. BROWN. I do not imply any fault to Mr. Denham in this matter. Mr. Denham in his conversation with me pointed out that the new law differs not in the jurisdictional question, not in that phase, but it differs in the purposes of the act.

Now, it is the purpose of the act to prevent secondary boycotts and to prevent jurisdictional disputes and to prevent certain types of labor activity. In order to effectuate those purposes of the act, he believes that it is necessary to extend the jurisdiction into fields that the Board had previously refused to go into. The building trades is an example of that. Consistently the Board had refused to take jurisdiction of the building trades. Now, there is no question of it, at least as far as Mr. Denham's office is concerned.

Consistently the Board has refused to take jurisdiction in cases of restaurants. Now, there is considerable doubt about whether or not Mr. Denham's office will take it. He feels that the way the law is written he is required to, and that is a new phase of this law that, as I said, is producing labor disturbances.

Mr. WILSON. He feels that way notwithstanding the fact that the jurisdictional part of the Wagner labor law was just brought forward into the Taft-Hartley Act?

Mr. BROWN. That is right. There has not been anything in the language determining jurisdiction.

Mr. WILSON. Has the National Labor Relations Board actually passed on any of these cases that you know of?

Mr. BROWN. No, it is too soon. These cases will generally arise in Mr. Denham's office first.

The CHAIRMAN. And there are cases coming up from Minnesota at the present time?

Mr. BROWN. There are cases coming up from not only Minnesota—I think the Minnesota hotel case is the one you are referring to—but there are cases arising in other parts of the United States in at least 10 places that I know of right now. We have had this problem forced on us just recently, and that was the reason I came here—to try to obtain some determination of the matter.

Mr. GWINN. There is one point I would like to bring out, Mr. Chairman, at this time. When we first began to discuss in the House this Hartley act, the question was raised seriously by some of the members as to whether or not this whole business ought not to be thrown back to the States. We anticipated just the complication that you are describing.

The thought was that if each of the States had a Taft-Hartley Act of its own, by and large these labor matters would be resolved.

Now, if you redefine what affects commerce, you are going to have some big hotels, let us say, on the border line between two States, that will clearly come under any definition that we might put on the books, whereas your little hotels in the small towns or the small cities would not be affected. So, you would always be in a quandary to know whether you are under one act or the other. Whereas, if the States were functioning, if their own country courthouses and police were functioning under an act of their own, this situation would be resolved, would it not?

Mr. BROWN. I am sorry I cannot agree with you on that, because I have seen that many of the States unfortunately are unable to assume some of the most elementary judicial functions today, let alone handling of such a complex factor as a labor problem.

Mr. GWINN. Do you mean they are unable or that they are deprived of the opportunity?

Mr. BROWN. Some of our States are, shall we say, backward in their judicial procedures and their ability to handle the complex problems of this sort. I do not believe all States will set up the machinery to handle it. I do not feel that

all of them can afford to either. So, I think it is a problem that the Congress must handle, with some implementation from the States wherever it is possible.

But I feel that the problem has not been handled properly. I feel that the law should be rewritten to remove the uncertainties.

Mr. WILSON. Whom does your union represent now?

Mr. BROWN. Hotel and restaurant employees. The categories usually found in our local unions are cooks, waiters, waitresses, bartenders, culinary employees, and the service employees in a hotel like maids and so on.

The CHAIRMAN. Do you have some questions, Mr. Harvey?

Mr. HARVEY. I have none.

The CHAIRMAN. Mr. Brehm?

Mr. BREHM. No.

The CHAIRMAN. Thank you very much, Mr. Brown.

Mr. BROWN. Thank you.

The CHAIRMAN. Mr. Anderson.

STATEMENT OF BRUCE ANDERSON, REPRESENTING THE AMERICAN HOTEL ASSOCIATION

Mr. ANDERSON. I am Bruce Anderson, Mr. Chairman and members of the committee. I am the president of Bruce Anderson Hotels, operating three hotels in Michigan.

The CHAIRMAN. In what places?

Mr. ANDERSON. Lansing, Mich., Bay City, Mich., and Niles, Mich.

I am representing the American Hotel Association and, a little more specifically, the Minnesota Hotel Association and the Michigan Hotel Association. I am sorry that we were unable to have a representative from Minnesota here on this short notice. I have a memorandum prepared to submit.

The CHAIRMAN. You came in yesterday, and we gave you a hearing today?

Mr. ANDERSON. Yes, sir.

The CHAIRMAN. You got what you asked for?

Mr. ANDERSON. Yes, sir.

In an informal conference held with representatives of the American Hotel Association, an assistant in the Office of the General Counsel of the National Labor Relations Board has stated that if a case involving a hotel is presented to the Office of the General Counsel for an opinion, he will take the view that the Board has jurisdiction of such case, although admitting that no jurisdiction was ever taken over any hotel during the 14 years since the National Labor Relations Act was enacted. Thus an administrative agency threatens to overturn the labor policies of an entire industry by a ruling which disregards the intent of Congress exempting local businesses from the act.

The hotel industry is an aggregation of many small business establishments. Approximately 5,700 of these hotels are members of the American Hotel Association, and of such members 76 percent are hotels having 125 rooms or less; 96.9 percent of such membership are hotels of less than 500 rooms. Only 116 of these hotels have more than 500 rooms.

Hotels are service institutions which, regardless of size, are essentially local in nature. Basically, the service furnished by hotels consists of food and lodging and in their very essence these services are rendered entirely within the walls of the establishment. Hotels are not a part of a distribution system which handles goods in commerce and they are not purveyors of merchandise except perhaps to the extent that they furnish meals to the guests.

Hotels do not resemble to any degree those establishments which exemplify the essential features of commerce, namely, the manufacture, distribution, or transportation of goods, or the transportation of persons; hotels are essentially a service industry, and their service is rendered not to manufacturers or distributors of merchandise, but to individual consumers who require rest and refreshment and who may be seeking recreation, engaged in business, or occupying permanent living accommodations.

During the 14 years since the enactment of the National Labor Relations Act, there has never been any determination that hotels are subject to such act, nor was any effort made, either by Government, by labor, or by management, to invoke the provisions of such act. All parties appeared to recognize the inapplicability of the act from both a legal and practical standpoint. Because of their essentially local nature, hotels were and are subject to various State labor laws. That such controls worked satisfactorily is evidenced by the record of labor relations in the hotel industry. During such period there have

never been any extended or widespread strikes or other major labor disturbances. Such disagreements or strikes as did occur were essentially local in nature and were adjusted under the laws of the States where they occurred.

During the hearings which led to the enactment of the Labor-Management Relations Act, there was no testimony as to labor conditions in the hotel industry which required correction by Federal law. As pointed out, labor relations in the hotel industry generally were such that no further regulation or change in procedure seemed to be required.

Congress made no change in the language which delineates the coverage of the Labor-Management Relations Act, using the same language as existed in the National Labor Relations Act. An industry not covered by the former law is not covered by the present law. The only reason which can now be advanced for attempting to exercise jurisdiction over the hotel industry after the passage of nearly 14 years is that jurisdiction always existed but was not exercised, and that conditions have now changed so as to warrant the exercise of such jurisdiction. Such a change in position cannot be justified by the facts.

As pointed out, the record before Congress is barren of any testimony indicating that additional jurisdiction was being conferred, and the record is equally barren of any testimony that there existed, in the hotel industry, conditions which required immediate correction by Federal authority.

While it may be proper for a Federal department to exercise its authority to the limits of its jurisdiction, an extension into doubtful areas certainly cannot be justified in those cases where the activity sought to be controlled is essentially local in character and where there has been no testimony as to conditions requiring correction.

This view was most forcefully expressed by two dissenting members of the National Labor Relations Board in the recent case involving Liddon White Truck Co., Inc., in the following language:

"We would maintain the policy of self-abnegation enunciated in the Herff Motors case, decided less than a year ago, rather than return to doctrine that has lain quietly interred since Newton Chevrolet issued in 1941. The amended statute contains no language compelling a sudden expansion of this Board's jurisdiction, nor can we discover new policy considerations sufficient to warrant our intervening in a controversy inherently local in character.

"An agency that received 12,500 new cases in the most recent 6-month period and closed its books on March 1 with 9,500 cases pending, ought not, in our opinion, to embark upon a search for new fields to conquer. There is more than enough to do. We believe that it would be better for the Board to concentrate attention upon expediting action on cases in important industries, rather than dissipate its energies upon matters that would normally be the concern of the States. If it be said that certain States do not now have necessary machinery available, we reply that the unrestrained expansion of Federal jurisdiction is the most likely way to assure the perpetuation of that condition."

It is interesting to note that this language was used in a case where the employer purchased all of its merchandise from points outside of the State and had a sales territory which extended outside of the State. The majority of the Board would undoubtedly have taken a different view if the case had involved an essentially local service industry, such as the hotel industry.

It is respectfully submitted that the Office of General Counsel of the National Labor Relations Board should refuse to take jurisdiction of cases involving hotels.

That, gentlemen, sums up our position. We are in a position where we do not know exactly where we stand.

The CHAIRMAN. You are in the same position as the preceding witness was.

Mr. ANDERSON. Yes, sir.

The CHAIRMAN. And you, as I get it, want the interpretation on the intent of Congress to remain as it was. That is one question.

Mr. ANDERSON. Yes, sir.

The CHAIRMAN. And you think the Board will have plenty enough to do if they take care of those 9,000 pending cases, and settling the packing-house strike and the railroad strike if it comes, and such other strikes as may be pending. The Chevrolet strike, for example, I know is set for next Tuesday. You think the Board will have enough to do handling all those?

Mr. ANDERSON. We do.

The CHAIRMAN. I have no more questions. Mr. Wilson?

Mr. WILSON. Can you think, Mr. Anderson, of a single individual in this whole United States who either in his business or in his personal life does not use some article or some commodity that comes across State lines?

Mr. ANDERSON. No, sir; I cannot think of any such individual or group.

Mr. WILSON. And that applies to everything he buys or uses, and it applies to you, even to the tie that you have on.

Mr. ANDERSON. That is right.

Mr. WILSON. In other words, if what is asserted here on the intent of the NLRB and its general counsel, if that is carried into effect, that would mean they would immediately assume jurisdiction over every individual in the United States.

Mr. ANDERSON. That would be our reasoning and our belief—that every little business up and down the streets would necessarily come under the NLRB.

Mr. WILSON. That is all.

The CHAIRMAN. Mr. Harvey?

Mr. HARVEY. No questions.

The CHAIRMAN. Dr. Brehm?

Mr. BREHM. This is just one of the instances that we feared in giving this much power to any individual. That is all I have to say.

The CHAIRMAN. Thank you. We have a representative here from the House Committee on Small Business. Will you come up, please, Mr. Foristel?

STATEMENT OF JAMES W. FORISTEL, EXECUTIVE DIRECTOR, SELECT COMMITTEE TO CONDUCT A STUDY AND INVESTIGATION OF THE PROBLEMS OF SMALL BUSINESS, HOUSE OF REPRESENTATIVES

The CHAIRMAN. Will you identify yourself for the record?

Mr. FORISTEL. My name is James W. Foristel, and I am executive director of the House Small Business Committee.

The CHAIRMAN. What is the function of that committee?

Mr. FORISTEL. To see that small business is not injured by legislation and to see that it is not caught in the squeeze as it has been in previous years.

The CHAIRMAN. You may proceed, sir.

Mr. FORISTEL. I am appearing here today representing the chairman of our committee, Congressman Ploeser, who is engaged in Appropriations Committee business too urgent from which he might be absent. The House Small Business Committee has not in the past taken the occasion to inquire into labor problems because small businesses have not presented such problems specifically to us.

Our interest in this hearing is of inquiry rather than to add testimony to any particular complaint being made. The hotel association representatives have expressed to us a fear that the National Labor Relations Board is about to take jurisdiction of local labor problems heretofore regulated by State agencies. It is their contention that, if this occurred, uncertainty and confusion will be caused that will be costly dollarwise and may well constitute a real threat to free enterprise. It occurs to us then to inquire:

(1) Can hotel operation be considered interstate commerce when all its business is of a local nature being performed wholly within State boundaries?

(2) Why has not the National Labor Relations Board asserted jurisdiction prior to this date, and why also did not the Board prior to the enactment of the Taft-Hartley law take jurisdiction?

(3) Would not the National Labor Relations Board, by this contemplated action, be creating and fostering a new monopoly—a labor monopoly—in the hotel field which might become a basis for other new monopolies in local service industries?

Our committee is vitally interested in the fullest enforcement of all antitrust laws to protect the small business of this Nation. We fear that a new monopoly extending the length and breadth of our Nation might be here created by an agency of the Federal Government. It seems that State governments have quite capably demonstrated that they are able to settle local labor and management problems in the small businesses of the United States.

That completes our prepared statement, Mr. Chairman. It occurs to us, further, that at the moment we are in the throes of coal strikes, railroad strikes, packing-house strikes, automobile strikes, and that if we have the election of a union, some day we might wake up to find every hotel in America closed down on the same day. It is bad enough to have these problems local in their nature.

That is all I have to say.

The CHAIRMAN. Any questions? [No response.] Thank you very much, and I wish you would thank your chairman, Congressman Ploeser, for sending you over here this morning.

Mr. FORISTEL. Yes. Thank you, sir.

The CHAIRMAN. Who is the next witness? Who desires to appear and make a statement?

**STATEMENT OF KENNETH LANE, DIRECTOR, EMPLOYER-EMPLOYEE
RELATIONS, AMERICAN HOTEL ASSOCIATION**

Mr. LANE. My name is Kenneth Lane, and I am the director of employer-employee relations with the American Hotel Association, 221 West Fifty-seventh Street, New York City.

Mr. Chairman, the only thing that I would like to add to what has already been said by Mr. Anderson, and after hearing the testimony of Mr. Brown representing the unions, is that the American Hotel Association has put the same interpretation on coverage for hotels under the Taft-Hartley Act as we did under the Wagner Act.

Our interpretation was that we were not in a business affecting commerce, and, when the Taft-Hartley Act was passed last June and went into effect last August, we notified all our members that we were not in commerce and therefore we were not under the Taft-Hartley Act, except, of course, in the District of Columbia, which is under all Federal regulations and therefore is under the Taft-Hartley Act with respect to the city.

We wish, therefore, to reiterate that our interpretation of the coverage of the law is the same as the interpretation put on it by the representative of the unions here today.

That is all I wish to say. Thank you.

The CHAIRMAN. Thank you. Do you wish to present any other witnesses, Mr. Anderson? Who else desires to make a statement this morning?

STATEMENT OF M. O. RYAN, AMERICAN HOTEL ASSOCIATION

Mr. RYAN. My name is M. O. Ryan, appearing for the American Hotel Association as their representative here in Washington.

The CHAIRMAN. Your local address?

Mr. RYAN. 1405 K Street NW., Washington, D. C.

The CHAIRMAN. Proceed, sir.

Mr. RYAN. In informal discussion with a representative of the legal counsel of the Board—

The CHAIRMAN. Pardon me. What is his name?

Mr. RYAN. A Mr. Wells. I am sorry, I do not recall his first name.

The CHAIRMAN. Never mind that, we can find that in the book.

Mr. RYAN. We will have it for you in a few minutes, sir. He was asked this one question: "If you take one hotel case and take jurisdiction, does it automatically follow that you thereby enjoy jurisdiction over all hotels in the country?"

He said, "Yes."

And the absurdity of that is obvious; it flows down to the fact that in some States, as Virginia, for instance, under State statute a private home with five rooms to rent can get a hotel license; so a private residence with five rooms under this interpretation would be in commerce.

The CHAIRMAN. There is some limitation based on the number of employees, is there not?

Mr. RYAN. No, sir.

The CHAIRMAN. No?

Mr. RYAN. No.

The CHAIRMAN. Then among those affected might be all these motor courts over the country; and even the housewife would be, too, if she bought Fels-Naptha or Rinso or any of those products.

Mr. RYAN. Yes; and this gentleman that has just come from the hospital, he slept on sheets that came across State lines, and his nurse's uniform came across State lines. And we asked him, "Weren't they in commerce?" We asked him that, and he said, "Obviously."

The CHAIRMAN. That is all you have to say, sir?

Mr. RYAN. Mr. Chairman, we have some Atlantic City men coming this afternoon, and you could hear them after you have heard Mr. Denham.

The CHAIRMAN. Yes; we will hear them. Mr. Denham will be here this afternoon at 2:30. He was to have come at 1:30 but cannot be here at that time. I suppose you and the other gentlemen here may want to be present this after-

noon when he testifies, and we will be glad to have you. You, too, Mr. Brown, may want to make some reply.

Mr. WILSON. Mr. Chairman.

The CHAIRMAN. Yes.

Mr. WILSON. At this point I would like the record to reflect that as one Member of the Congress from Dallas, Tex., who voted for the Taft-Hartley law, it certainly was not my intention that any such strained construction be placed on the Taft-Hartley law, and I am sure that it also was not the intent of the Congress.

The CHAIRMAN. Even though it does contain certain provisions. I wish you could be here this afternoon to question Mr. Denham.

Mr. WILSON. I should like to be.

Mr. GWINN. As my intent was reflected in the Taft-Hartley Act, it was very definitely to restrict and reduce the activities of the Government and not to extend them further. I would like to see a definition really restricting this functioning of the Government down to the very narrowest limits.

Mr. WILSON. And I agree with Mr. Brown that Congress should amend the law and place a definite restriction.

Mr. GWINN. I think so, too.

The CHAIRMAN. It will be one of the functions and its was one of the purposes of this hearing to permit the Committee on Expenditures in the Executive Departments to recommend to the Committee on Labor legislation. Of course, the Committee on Executive Expenditures has no jurisdiction over that subject except as to the manner in which the law is being administered and interpreted. That is why we have here three members of the House Education and Labor Committee, who wrote the law.

I think that is all for now, and I thank you all very much, gentlemen.

(Whereupon, at 11:15 a. m., the special subcommittee recessed to 2:30 p. m. of the same day.)

AFTERNOON SESSION

(Whereupon, at 2:40 p. m., the special subcommittee was reconvened.)

The CHAIRMAN. All right, gentlemen.

Mr. Denham.

STATEMENT OF R. N. DENHAM, GENERAL COUNSEL, NATIONAL LABOR RELATIONS BOARD

The CHAIRMAN. Will you identify yourself, Mr. Denham?

Mr. DENHAM. I am R. N. Denham, general counsel of the National Labor Relations Board.

The CHAIRMAN. Do you know what this hearing has been about?

Mr. DENHAM. I understood it had something to do with the exercise of jurisdiction over certain types of industry, principally those having to do with the hotel industry.

The CHAIRMAN. It has to do with what has been reported to us to be a move on the part of your office to change this definition, or the application of the definition of interstate and foreign commerce, or industry affecting commerce.

Mr. DENHAM. I do not believe we have made any effort to change it.

The CHAIRMAN. They are afraid of what you are going to do.

Mr. DENHAM. We simply proceeded with our concept of what the term means.

The CHAIRMAN. I wonder if you would give us your explanation now.

Mr. DENHAM. That is a pretty broad subject, just as commerce is a broad subject, but any industry which affects commerce in that sense affects the passage of goods or the transaction of business between the States, whether it be in a large or in a small way. And that does not necessarily mean that one has to be actually engaged in interstate commerce, but his activity, his business, may be one which is almost wholly intrastate and still have a substantial effect on commerce in the over-all.

The CHAIRMAN. I understood from the testimony here this morning that previously those having charge of the interpretation and administration of the law did not think it applied, or at least did not apply it, to businesses unless they were, in the old sense of the word, interstate businesses, and that now there was about to be instituted a change which would make the Taft-Hartley Act cover all those businesses, large or small, which obtain materials through interstate commerce, or ship out goods, even though the bulk of their business, or a substantial part of their business, is not interstate business.

Mr. DENHAM. I do not think the former Board under the Wagner Act confined itself strictly to whether one was engaged in interstate commerce. They have, as I have just said, used as their yardstick the question of whether the operations affected commerce.

Now, there may have been some misapprehensions arise over the fact that under the Wagner Act the Board had a very very broad area of discretion, and in many instances they refused to process cases, to assert jurisdiction over them, not on the theory that they did not affect commerce, but on the theory that it would not effectuate the policies of the Wagner Act to process them in the Board.

The CHAIRMAN. Do you mean by that that the old Board interpreted the act so as to give effect to what it thought was the policy of the act, rather than applying the terms?

Mr. DENHAM. Well now, that I cannot say, Mr. Hoffman.

The CHAIRMAN. Well, is that the present thought?

Mr. DENHAM. The present thought of the Board—the present thought of my office, at any rate, and as indicated by some of the recent decisions of the Board—is that it is a rare case in which business does not affect commerce in some degree, and that where commerce is affected the Board has jurisdiction.

Now, I may call attention to the fact that under the Wagner Act there was just one class of complainants. Those were the labor organizations or individuals who desired to file charges, and there was only one class of respondents, and that was the employer. So all charges were directed to employers, and all unfair labor practices were unfair practices of employers as they were defined in the Wagner Act.

Under the present act, we have several different types of elections that are different from what were provided for in the Wagner Act. We have cases where elections may be inaugurated on petitions filed by the employees themselves. The authority of an employer to petition for an election is very greatly broadened over what it was under the regulations of the old Board. The union-shop election is a brand-new thing we had never heard of before. And, in the field of unfair labor practices, now an employer may file charges of unfair labor practices against labor organizations if certain things are committed. Employees themselves may file charges against either employers or against labor organizations, and, in fact, in some cases one labor organization can file a charge against another.

So that the complexion of the act is very greatly changed. Under the old act, the Board had a very happy relation with the New York State Labor Relations Board, which operated under a little Wagner Act practically identical with the one that preceded the Taft-Hartley Act here; and there, under that arrangement, the old Wagner Act Board ceded jurisdiction over quite a large number of classes of cases to the State labor relations board, allowed them to proceed, and they would not assert jurisdiction over them.

Those included banks, obviously in business affecting commerce, and they have been so held by the Circuit Court of Appeals.

The CHAIRMAN. And would the banks, in your opinion, come under the Taft-Hartley Act?

Mr. DENHAM. Very definitely. Insurance companies, as I recall—

The CHAIRMAN. Would hotels come under it?

Mr. DENHAM. Loft buildings, hotels. There were quite a number; and then the miscellany of little business.

The CHAIRMAN. That came under the New York State law?

Mr. DENHAM. The New York State board exercised jurisdiction over those without any interference from us at all, and in many of them, where we obviously could have asserted jurisdiction, we simply stepped aside and allowed the State board to handle them.

The CHAIRMAN. But your thought is that under the Taft-Hartley Act you now do have jurisdiction over those industries, businesses?

Mr. DENHAM. We not only do have jurisdiction, Mr. Hoffman, but I think our assertion of jurisdiction is almost mandatory. I refer you to section 10 (a).

The CHAIRMAN. Let me ask you right there: If a complaint were made you would feel compelled to take jurisdiction?

Mr. DENHAM. In the great majority of cases. I can readily conceive some, and there have been some, in which we have refused to take jurisdiction since the Taft-Hartley Act.

The CHAIRMAN. You have refused, you say?

Mr. DENHAM. Yes, sir.

The CHAIRMAN. What industries?

Mr. DENHAM. I have in mind a little concern out in California that manufactured concrete drain tile. They got their cement from within the State of California; they got their sand locally; they made their tile and they sold them to the farmers.

The CHAIRMAN. But I mean where something came in from outside.

Mr. DENHAM. Where things come in from the outside, your jurisdiction immediately attaches.

The CHAIRMAN. Am I correct, then, in the assumption that where any material comes in from across a State line and is used by the local industry, under the Taft-Hartley Act you have jurisdiction?

Mr. DENHAM. In my opinion; yes, sir.

The CHAIRMAN. And if complaint is made you will take it?

Mr. DENHAM. Oh, yes.

The CHAIRMAN. You are forced to?

Mr. DENHAM. Unless it would come within the de minimis doctrine of a few dollars involved, I think we would have no option but to accept it.

The CHAIRMAN. Well, then, assume, for example, that they did not mine any coal in Indiana, which they do, and there is an industry there which ships in coal, which sell its product wholly within the State, operating on coal which comes in from West Virginia.

Mr. DENHAM. Yes, sir.

The CHAIRMAN. You would have jurisdiction there and would have to take it?

Mr. DENHAM. Definitely.

The CHAIRMAN. There is no business, then, that you would not have jurisdiction over?

Mr. DENHAM. I can conceive very few businesses over which there is not at least technical jurisdiction.

The CHAIRMAN. Assume that a man in my State had a dairy herd; he produced his milk, and it went to the local co-op creamery, and was made into butter. Of course, if that butter was sold outside you would say the dairy farmer would be under the law.

Mr. DENHAM. I do not think so if he sold it through the co-op.

The CHAIRMAN. But his milk went into the butter which went outside. What is the difference? This is the reverse of the coal case I just put to you. The farmer produces the milk which goes to the creamery, which goes out across the State line. In the other case the coal came from outside and went into the factory.

Mr. DENHAM. But the farmer loses control of his milk when he sends it to the co-op.

The CHAIRMAN. So does the fellow that sells the coal to the industry.

Mr. DENHAM. Well, he gets it from the outside, though.

The CHAIRMAN. But the farmer finally ends up with his milk outside.

Mr. DENHAM. But he did not have any control over it.

The CHAIRMAN. Suppose he bought a milking machine from outside?

Mr. DENHAM. I am assuming now that the question of agricultural workers is not involved in the thing.

The CHAIRMAN. That is right; so am I.

Mr. DENHAM. Yes.

The CHAIRMAN. And what we are getting at, so we will be sure we are not just frogging around, is this: We are trying to anticipate, if we can, trouble which may come, and then, while Congress is in session, meet it before it comes.

Mr. DENHAM. In the illustration given us of the dairy farmer who buys a milking machine from the next State, there you run into questions, I think, approaching the de minimis, and if there are capital expenditures, nonrecurrent, very frequently they will be overlooked and disregarded.

The CHAIRMAN. Of course, the cost of the coal in many industries where they make a highly specialized product is comparatively slight.

Mr. DENHAM. But the man who is dealing in the coal, the coal dealer—

The CHAIRMAN. But it is the factory I am talking about—the fellow who uses the coal.

Mr. DENHAM. Where does he get it from?

The CHAIRMAN. He gets it in Indiana from West Virginia.

Mr. DENHAM. Yes, sir. Well, that would be merchandise used in the conduct of his business.

The CHAIRMAN. Only 1 percent of his business and he still would be in it?

Mr. DENHAM. You are getting down into the very de minimis—as I say, into the de minimis factor. Whether it is 1 percent or whether it is a few hundred

dollars does not necessarily provide the yardstick under the decision of the Supreme Court. It is, in the last analysis, the effect on commerce of that business, and I would hesitate to just take a single situation of that sort and attempt to give you a categorical answer to it. There are always a lot of factors that must be taken into consideration before you arrive at a decision.

The CHAIRMAN. That is to say, each case must stand on its own feet. The Supreme Court has followed that policy, has it not, of taking each case that came up and extending or limiting?

Mr. DENHAM. Yes, sir; and that is the same policy we try to follow, both in my side of the Board's operations, and, I am sure, on the Board's side.

The CHAIRMAN. That is why when these gentlemen come down sometimes and ask us if the law applies, we do not know, and we do not know how to fix it so it does or does not apply.

Mr. DENHAM. Those cases almost invariably have to be handled on a case-to-case basis, although there are general principles set up, and in time we find that a business within a given over-all industry would appear to be affected—be within the jurisdiction of the Board.

The CHAIRMAN. Do the hotels come under it now, in your opinion?

Mr. DENHAM. Yes, sir.

The CHAIRMAN. Why do they come under it? Because of the traveling men?

Mr. DENHAM. There are two or three factors. Hotels are very substantial buyers of supplies—linen and soaps and equipment of one sort and another—practically all of which pass through State lines in one place or another. The commercial hotels are designed to accommodate the traveling public, and on that score alone they are a factor in commerce.

The CHAIRMAN. What about local laundries?

Mr. DENHAM. There again you run into the situation as to whether they are laundries that wash the shirts of the local citizenry or whether they supply industrial uniforms or launder uniforms, and things of that sort, that are used in the general course of manufacturing of some of the concerns in that locality.

The CHAIRMAN. Suppose they just launder uniforms of General Motors, for example, in Detroit alone?

Mr. DENHAM. I would say that they probably would be regarded as affecting commerce.

The CHAIRMAN. Because the uniforms are worn by workers who are engaged in interstate commerce?

Mr. DENHAM. That is right. They go into it as a part of the operation of that business.

The CHAIRMAN. The laundry fellow buys his soap from across the State line. Does that bring him in?

Mr. DENHAM. We have had those questions raised, and I am sorry I cannot answer your question categorically. Again you run into the case-to-case situation. If he buys all of his soap from outside the State, his supplies, I think obviously his business has an effect on commerce. Now, whether it is a large or small effect is another matter, but it has an effect on commerce.

As I have said before, it is very difficult to find any business that does not have some effect on commerce.

The CHAIRMAN. Then there is a change in policy of interpreting the law, or in the interpretation of the term "affecting commerce"; is that not?

Mr. DENHAM. There is a broadening of the application of it.

The CHAIRMAN. Which you think is rendered necessary by this act?

Mr. DENHAM. Yes, sir.

The CHAIRMAN. And because of provisions which were not contained in the old act?

Mr. DENHAM. Yes, sir.

The CHAIRMAN. Now, would you make that more definite? Just where in the new act do you find it? What are the words which, in your judgment, extend or broaden the definition of "affecting commerce"?

Mr. DENHAM. They do not broaden the definition of it, as I say.

The CHAIRMAN. Well, your interpretation of it.

Mr. DENHAM. It is the application of it. Under the Wagner Act, there was no prohibition on the Board's ceding its jurisdiction or allowing the State agency to go ahead on something until the Bethlehem Steel case, in which the Supreme Court said that if the National Board had jurisdiction, the State board could not take jurisdiction.

The CHAIRMAN. Even with the consent of the State, or the consent of the State board?

Mr. DENHAM. With the consent of the board? I must confess that the decision of the Supreme Court on that score is not sufficiently clear. I mean, I do not recall it well enough to answer that, whether that point was raised, but usually it is the consent of the parties.

Now, in the Bethlehem case, as I recall, the question of jurisdiction was raised by one of the parties before the board. I do not recall that our Board raised any question about it at all. It was the Allegheny-Ludlum-Bethlehem Steel case.

Mr. WILSON. The State board raised the question in that case?

Mr. DENHAM. The question was raised and the State board contested it, and it went on through the various layers of courts up to the Supreme Court, but it was raised originally by one of the parties.

The CHAIRMAN. And where is the language?

Mr. DENHAM. The thing that gives you the limitation is found in section 10 (a).

The CHAIRMAN. Let me find that.

Mr. DENHAM. Section 10 (a) has to do with the ceding of jurisdiction to the agencies of States and Territories that deal with the handling of unfair labor practices, and it permits the ceding of that jurisdiction only where the applicable State law is consistent with our law that we are now administering, and where the application of that law is consistent with the application that we make of it.

Inherent in that is that we cannot cede jurisdiction either passively or actively so as not to assert jurisdiction when it is claimed, unless those conditions exist.

The CHAIRMAN. What is this? I do not quite get this. It says:

"Provided, That the Board is empowered by agreement with any agency of any State or Territory to cede to such agency jurisdiction over any cases in any industry," and it mentions certain exceptions, "even though such cases may involve labor disputes affecting commerce. * * *"

Mr. DENHAM. Read the next three or four lines of that thing. There you get the bug in it.

The CHAIRMAN. It says:

"* * * unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this act or has received a construction inconsistent therewith."

That is the whole of 10 (a).

Mr. DENHAM. Yes, sir. In other words, we may do that when the State law is consistent with this one, and the application of the State law is consistent with the application we make of the Taft-Hartley Act.

The CHAIRMAN. Well, then, for instance, with reference to New York, what you would be doing, then, is to make your Federal practice conform to the State practice.

Mr. DENHAM. No, sir; we are not ceding anything. That is just the trouble.

The CHAIRMAN. You are not ceding anything; you are just following the interpretation put on the law by New York.

Mr. DENHAM. No; the New York State law is the same as the old Wagner Act, and that is thoroughly inconsistent with the present law, so we do not do business with the New York State board any more.

The CHAIRMAN. You mean the Wagner Act is inconsistent with the present law?

Mr. DENHAM. Yes, sir.

The CHAIRMAN. In what particular with reference to affecting commerce?

Mr. DENHAM. It is not a question of affecting commerce; the substantive provisions of it.

The CHAIRMAN. That is what I am talking about. The only thing we are interested in here today is the interpretation or application of this affecting commerce.

Mr. DENHAM. There is no relation between the New York act and this act on that score.

The CHAIRMAN. I understood you to say a while ago that in New York—

Mr. DENHAM. That was under the old Wagner Act.

The CHAIRMAN. And under the New York State law?

Mr. DENHAM. Yes, sir; the Wagner Act and the New York State law were almost identical.

The CHAIRMAN. Yes; and in that situation New York handled those cases because they affected commerce, but the Federal agency did not?

Mr. DENHAM. No; the New York State board just handled them, not because they affected commerce.

The CHAIRMAN. Well, they handled them because they came under the State law.

Mr. DENHAM. Yes; they brought them under the State law.

The CHAIRMAN. And the National Labor Relations Board considered that they did not affect interstate commerce.

Mr. DENHAM. I would not say that. They found it to be easier to let the New York State board handle them and it would affectuate the policies just as well. The CHAIRMAN. And now you propose that we handle them under the Federal law?

Mr. DENHAM. Yes, sir; and under the Allegheny-Ludlum-Bethlehem Steel case we are forced to.

The CHAIRMAN. My point was, inasmuch as this statute here says:

"* * * unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency"—that is the State agency—"is consistent with the corresponding provision of this act or has received a construction inconsistent therewith."

I got the impression that what you were doing now was to make the Federal practice conform to the State practice.

Mr. DENHAM. Not at all.

The CHAIRMAN. Well, you get to the same destination.

Mr. DENHAM. We have made no cessions of jurisdiction to any of the State agencies.

The CHAIRMAN. I understand that, but are you not following, in your interpretation or proposed interpretation, the same thought or idea that ran through the New York board?

Mr. DENHAM. I do not think so. I do not know what thought it was that ran through the New York board.

The CHAIRMAN. They had jurisdiction over these businesses.

Mr. DENHAM. They were within the State.

The CHAIRMAN. Within the State.

Mr. DENHAM. Absent the Federal jurisdiction, they would have jurisdiction over them.

The CHAIRMAN. And now you take jurisdiction over those same industries?

Mr. DENHAM. We had jurisdiction, but we simply did not assert it.

The CHAIRMAN. I see; all right.

Mr. DENHAM. It was more convenient to let them do it.

The CHAIRMAN. Did you have questions on that point?

Mr. WILSON. Judge Denham, without a change in the statutory wording, where the same, identical words in the Wagner Act were brought forward in the so-called Taft-Hartley law, I wish you would just set out specifically the reasons that would cause you to change—not change your opinion about the matter, because as I understand it, you were not in that department under the Wagner Act, were you?

Mr. DENHAM. No, sir; I had nothing to do with the Board other than to sit as a trial examiner under the Wagner Act.

Mr. WILSON. You are thoroughly familiar, I presume, with the holdings, decisions, and edicts of the NLRB under the Wagner Act?

Mr. DENHAM. I think so, yes.

Mr. WILSON. I would just like for you to set out in common parlance, so a country lawyer can understand it, just what are the elements that go into the fact that you have proposed to change the ruling that has been in force by the Board for the last 14 or 15 years.

Mr. DENHAM. The Board did not, so far as I know, in any of these cases where it did not assert jurisdiction, find or take the position that it did not have jurisdiction. It merely took the position that it would not effecuate the policies of the act, as the Wagner Act was written, to assert jurisdiction in these classes of cases.

The outstanding one had to do with the building and construction industry. The Board just did not assert jurisdiction over the building and construction industry. Now, exactly why that was done I do not know; I can only surmise. But the building and construction industry had been pretty well organized so far as the union were concerned, for many, many years. The relations between the builders and the unions were established. There was little question of recognition, and so there was no occasion for the Board to go into it from that phase.

And then, the very structure of the industry as such is to make it almost impossible, and to a large degree impractical, to attempt to determine matters concerning representation in that industry. As you well know, the employers

in the construction industry are not stable in the sense that their places of employment are not stable. They ordinarily do not have a crew of carpenters and plumbers and brickmasons that they carry around with them from one job to another. They get them from the union, and they will work for a few days and then they are laid off, and that is the end of it until they need some more carpenters or bricklayers, and they may get an entirely different crew.

So you couldn't set up an election and hold an election among the employees.

Mr. WILSON. Right at that point would you say that the hotel and restaurant industry and the bartenders are any more stable or less stable than the construction industry, the building-trades industry?

Mr. DENHAM. Oh, definitely. There is no reason why they should not be stable, unless it is just a characteristic of the employees themselves to float.

Mr. WILSON. Is there that characteristic of the employees to float?

Mr. DENHAM. I do not know.

The CHAIRMAN. If you will just stop there a minute, Mr. Wilson, I would like to ask him a question.

Mr. Denham, you cited 10 (a), but I think what Mr. Wilson is trying to get at—at least what I was trying to get at—was, What is there, other than section 10 (a) here in the new law that was not in the old law that causes his proposed change of policy which would take in hotels and practically every other business?

Mr. DENHAM. The hotels?

The CHAIRMAN. The whole of them. If I get it right, under this proposed ruling you are going to take in almost every small business which gets a part of its supplies outside, or an appreciable portion of its supplies outside, or sends a fairly large portion outside. They are all going to come under this act.

Now, what is there in the new law that was not in the old one that makes this change in policy?

Mr. DENHAM. Very broad expansion of the area of rights that are involved has much to do with it. Under the old law, the only client that the Board had was the labor organization or the occasional individual.

The CHAIRMAN. You have gone over that and told us about the employees having a right and the union having a right.

Mr. DENHAM. That is one of the factors. You have varying rights in there now.

The CHAIRMAN. That is to say, for the first time, then, the Taft-Hartley Act gave protection to the employees against their own union; one union as against another; and practically does away with jurisdictional disputes, or gives a remedy if there is a jurisdictional dispute; and the public is supposed to get a sort of half-way remedy.

Mr. DENHAM. There are all those factors that come into the Taft-Hartley Act.

The CHAIRMAN. So to carry out the policy of the act, it is your idea you have to bring in all the small businesses in the States?

Mr. DENHAM. If it affects commerce, and most of them do, it is entitled to protection.

Mr. WILSON. At that point, what business in this country would not affect commerce?

Mr. DENHAM. I have mentioned only one, and I also have in mind——

Mr. WILSON. You mentioned the concrete blocks.

Mr. DENHAM. The concrete tile. I have in mind a dairy case, I think in New York, over which we refused to assert jurisdiction. That was a case where this dairy obtained all of its supplies locally, and all of its milk came in locally and it was all distributed within the State of New York.

The CHAIRMAN. In trucks probably bought in Michigan from Fruehof.

Mr. DENHAM. Probably so. Just how it was carried from one point to another we did not go into. We did not go into that in going into the disposition of that thing, and I do not think that in that question the question of the trucks was brought in at all. I do not know whether they owned the trucks.

But there was a case in which the entire industry was within the State.

The CHAIRMAN. But even in that one the dairy farmer bought his commercial fertilizer and his seed, much of it, from outside.

Mr. DENHAM. The dairy farmer probably did, but the dairy farmer was not the dairy.

Mr. HARVEY. But they bought the milk.

The CHAIRMAN. They affected commerce. They bought the milk and if they sold it to the local people, that milk affected commerce because if the people had not bought it from them they would have bought it from somebody outside the State.

Mr. DENHAM. Well, you can carry that out. I had a gentleman just yesterday illustrate that by a statement. He was referring to a situation in Brockton, Mass. This was just an illustration, a corner groceryman. He had a pretty good business, but it had dropped off, and this man went in and wanted a job.

The fellow said, "Our business is down now; I cannot hire you, but when it gets better I will be glad to give you a job." The man said, "When will I know when to come back?" He said, "You just keep watching the paper, and if the cotton crop down South is right good, you just keep coming back here and I will have a job for you before very long."

He said, "How can the cotton crop in the South affect my job in your grocery store?" "Well," was the reply, "if the cotton crop is good the cotton growers are going to have plenty of money and they are going to have to buy shoes made in Brockton, and the people here will have more money and they will buy more groceries, and I will have a job for you."

Mr. GWINN. Do you think that the Congress intended to make this act ridiculous, to extend it in these directions?

Mr. DENHAM. I do not think that makes it ridiculous.

Mr. GWINN. To extend it to all commerce, practically all commerce.

Mr. DENHAM. That is what the act says, sir.

Mr. GWINN. Do you think Congress intended any such thing?

Mr. DENHAM. I cannot help but feel that you can, of course, carry it down to an absurdity, but when you reach an absurdity may represent a very broad difference of opinion.

I do not think that any of the applications that have been made or that have come before us have gotten into the realm of absurdity, and I have difficulty in believing that Congress did not intend that we give the benefit of this act to the little fellow and the big fellow, impose it on both of them.

Mr. GWINN. The only way to determine what Congress' intention was is to assume a continuation of the same state of rulings and regulations that applied before the act.

Mr. DENHAM. May I inject a question there, sir? We are fairly familiar with the legislative history of this act. On that basis, is it fair then to say that Congress did not intend that this act should apply to the construction industry?

Mr. GWINN. Did it apply to the construction industry before?

Mr. DENHAM. The Board did not apply it because, although they had jurisdiction, they found that in the state of law as they had it then, and as they viewed it, it would not effectuate the purpose of the act to apply it.

Mr. GWINN. I think it is not only fair to assume, but I think it must be assumed that Congress had no intention of bringing more people under this act than wanted to come under it or that needed to come under it.

The CHAIRMAN. Or that were under it before.

Mr. GWINN. Or that were under it before. We did not want to expand this thing. We made a law which those who needed it could apply, and we hoped the number who needed to resort to the law would not increase particularly. We were not making lawsuits by this act.

Mr. DENHAM. No, sir; and we do not want any more lawsuits than we have to have.

Mr. GWINN. So I think, to answer your question, it is fair to assume that Congress did not expect this to be applied.

Mr. DENHAM. Well, maybe so. I do not construe it that way. I think the little fellow is entitled to just as much protection under this law as the big fellow, if it comes within the jurisdiction of the act.

The CHAIRMAN. All right. Now, take it right where you have it. Congress undoubtedly intended to extend protection to the man in the corner grocery who sold to local customers, did it not?

Mr. DENHAM. If his business affected commerce; yes.

The CHAIRMAN. Well, whether it did or did not. For example, when we wrote that law we gave the corner groceryman a remedy against a secondary boycott, did we not?

Mr. DENHAM. Yes.

The CHAIRMAN. Now, is it necessary, to protect that small grocer, to find that the business he is engaged in is interstate commerce or a business affecting it?

Mr. DENHAM. How is he going to get it before the Board then?

The CHAIRMAN. Does he not have a remedy under the law?

Mr. DENHAM. I think so; yes.

The CHAIRMAN. Whether he is or is not. Suppose that corner groceryman sells nothing but fruit that he gets from a local farmer, to people who never were outside the State, and the teamsters union comes along, for example.

Let us take a concrete case. Suppose a corner grocery in Sodus, Mich., that is in Berrien County, sells fruit. He gets some groceries from Grand Rapids, or some fruit from Grand Rapids, and the teamsters' union refuses to deliver down there, boycotts him. He has a remedy whether he is or is not engaged in interstate and foreign commerce, has he not, under the act?

Mr. DENHAM. I would not want to answer that offhand without going into it a little more.

The CHAIRMAN. I would like to know where you could find any authority in that act for denying him the right to go to court and ask for an injunction against a secondary boycott, or for damages.

Mr. DENHAM. I would not want to answer that right now, Mr. Hoffman. I have doubts about it.

The CHAIRMAN. You are talking about the little fellow now. When we wrote that law, Mr. Gwinn and I sat on that committee 7 weeks, trying to do something about it. We hate to learn that we have failed miserably, but we thought, and still think, that when we wrote the law we gave protection to the little fellow you have been talking about, whether he was or was not in a business affecting commerce.

Mr. DENHAM. I am inclined to believe that the commerce clause of the Constitution has to be the foundation of any action taken under this act.

The CHAIRMAN. I agree with you about that part of it, but on the other hand, having written the law, and Congress having authority over it, we do not have to deny remedy to every fellow who is not engaged in a business affecting commerce, do we? It does not apply to each individual.

For instance, you take a member of a union who is denied employment, maybe because he does not belong to the union, or he has not paid his dues and they fire him. Now, whether that union is engaged in business affecting interstate commerce, or the people he works for are, he still has his remedy, has he not?

Mr. DENHAM. No, sir.

The CHAIRMAN. You say he has not?

Mr. DENHAM. No, sir; I do not think so.

The CHAIRMAN. I am sorry; I cannot agree with you.

Mr. GWINN. Do you think Congress should redefine the powers of the act?

Mr. DENHAM. What was that, Mr. Gwinn?

Mr. GWINN. Do you think that we should redefine what we mean by interstate commerce, what affects commerce?

Mr. DENHAM. If the Congress feels that way about it, they certainly should.

Mr. GWINN. Do you think they should?

Mr. DENHAM. I am perfectly satisfied with it the way it is.

Mr. GWINN. Now, you have a certain amount of confusion that is pretty apparent here. Would it not be sensible to continue the same rulings that have been applied until we have time to redefine what commerce is and what affects commerce?

Mr. DENHAM. My job is to take the law as it is written and apply it as I understand it to be.

Mr. GWINN. You will never be able to apply it; you will not have enough machinery to do it. Congress will have to meet in extra session to give you more appropriations, more personnel.

Mr. DENHAM. We are doing a right good job of it now, and we are not asking for any more money.

Mr. GWINN. You do not ask for any deficiency?

Mr. DENHAM. No, sir. As a matter of fact, you might be interested to know that Congress was very generous with us when this act was passed. Congress allowed us to spend almost \$6,000,000 up to the 1st of February, and we have not found it necessary to come back to Congress and ask them for any funds to take up the slack between the 1st of February and the 1st of July. We think we can still get by with the money we were authorized to spend up to the 1st of February.

Mr. GWINN. In view of the fact that for a long time we applied to interstate commerce a comparatively limited share of the national business, it is going pretty far under the same language to incorporate virtually every business as you indicate you think now is included in your interpretation of that same language.

Mr. DENHAM. Interstate business has increased very materially, too, and the relation and integration of business between the States have become much more positive and much greater.

Mr. GWINN. I know we always had little hotels and we always had substantially the same hotels we have now as far as size and variety is concerned, and nobody ever dreamed that they would be included until now.

Mr. DENHAM. Well now, that is a pretty broad statement, that nobody ever dreamed. We found it convenient to let New York handle the hotels, and to be sure, I do not know of any other cases, although there may be some, in which hotels have been involved. I am not familiar with all the decisions of the Board. I do not know of any; I cannot immediately mention any hotels or any hotel cases that the Board has handled, outside of the District of Columbia.

So I cannot answer that question, Mr. Gwinn.

Mr. GWINN. Have you ever attempted, yourself, to define what is interstate commerce?

Mr. DENHAM. Interstate commerce is one thing, but the term "commerce" is defined in the act and that is the definition we go by. Now, whatever affects that is brought within the jurisdiction of this law as we see it.

Mr. WILSON. What is commerce?

Mr. DENHAM. I would have to have the act to read it, sir.

Mr. WILSON. I mean, without referring to the act, just what is commerce?

Mr. DENHAM. Well, this is an excellent definition of it, on which I could not improve:

"The term 'commerce' means trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia or any Territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country.

"The term 'affecting commerce' means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce."

Mr. WILSON. Used in that sense, "commerce" means interstate commerce; it does not mean intrastate commerce.

Mr. DENHAM. Oh, no; that means interstate commerce. That is the definition of interstate commerce.

Mr. WILSON. In answer to Congressman Gwinn's question with regard to interstate commerce, you said: "No, we are not interested in defining the words 'interstate commerce' but the word 'commerce' as you apply it."

Mr. DENHAM. The term "commerce" as applied here is interstate commerce. That is the only type of commerce over which any Congress has any right to legislate.

The CHAIRMAN. Under the Constitution.

Mr. DENHAM. That is right.

The CHAIRMAN. That is true. Then there is no difference between the term "commerce" as used in this act and the term "interstate commerce."

Mr. DENHAM. Not at all.

Mr. WILSON. I thought from your answer to Congressman Gwinn that you had another definition for the word "commerce," other than that given in the act.

Mr. DENHAM. But the mere term of engaging in interstate commerce is different from engaging in a business which affects commerce.

The CHAIRMAN. And under your interpretation of that, everything a man does or may do affects interstate commerce in a greater or less degree, and if the degree is great enough, then it comes under the jurisdiction of your Board.

Mr. DENHAM. It is not quite as broad as any man, but it is hard to conceive of businesses that do not affect commerce to some degree. Now, there may be some, such as this little tile business out in California, which does not affect commerce as commerce is defined in this act.

The CHAIRMAN. It affects commerce in this sense: The fellow who got them might have bought them from somebody outside the State.

Mr. DENHAM. You can engage in all sorts of suppositions.

The CHAIRMAN. That is about what the courts have been doing, so that from a practical standpoint, except as this test they applied in the portal-to-portal cases, that minimum business; everybody is in it, are they not?

Mr. DENHAM. I can give you no different answer. It is hard for me to see not any business, but many businesses that are not in one way or other engaged in operations that affect commerce.

The CHAIRMAN. So if I grow a bushel of potatoes and sell them here to Mr. Harvey, you would say I was not in interstate commerce?

Mr. DENHAM. That is right.

The CHAIRMAN. But if I grew a million bushels of potatoes and sold them to my people in my State and they eat them in the State, I would be engaging in interstate commerce?

Mr. DENHAM. No, sir.

The CHAIRMAN. Why not? I interfere with the sale of potatoes from Maine in my State.

Mr. DENHAM. That makes no difference. Your business does not involve crossing State lines in any respect.

The CHAIRMAN. That is so, but many of these other businesses, for instance the hotels you are going to take in—suppose a man has a hotel down in North Carolina where there are cotton mills, the Cannon people. Suppose he has a hotel and buys all his linen there and still does not buy food any place but there, you get him in because the traveling men come in?

Mr. DENHAM. That is right.

The CHAIRMAN. And if he has a bar in connection with his hotel and he buys his beer up in Milwaukee, then these bartenders whose representatives are here are in?

Mr. DENHAM. I agree that to some extent even the bartenders are in if they are selling beer that is bought in Milwaukee and brought down there. They have some effect on commerce. It may be a de minimis effect, one which probably you would have difficulty in justifying, applying the machinery of the Board to when you consider an individual case, but nevertheless the fact is there that it does have some effect on commerce.

Mr. WILSON. Judge Denham, pursuing that thought, just take a small country town in Texas. Suppose there is a small bottler of beer. There is an owner of the tavern, and he has one bartender. Do you think he would come under this act? They grow no hops in that State.

Mr. DENHAM. Now, I find it difficult to categorically answer a question of that sort with a "Yes" or "No."

Mr. WILSON. I realize it is a broad subject. Have you had any ideas about it? I believe that was mentioned to you.

Mr. DENHAM. There again you run into the de minimis business, and whether there is an impact on commerce, whether it does affect commerce to the extent that is contemplated by this law. And there you do run definitely into the de minimis theory.

Mr. WILSON. Too small to fool with; is that what you mean?

Mr. DENHAM. Too small to fool with.

Mr. WILSON. Now, take this same tile maker you were talking about. Would the fact that some of his employees came from other States have anything to do with it?

Mr. DENHAM. No, sir.

Mr. WILSON. Would the fact that the very machinery he uses is bought out of the State have anything to do with it?

Mr. DENHAM. Well, there you run into another situation which would be governed by the background picture. Capital equipment of that sort, once established, frequently is not taken into consideration in the effect on commerce. If it is a recurring expenditure which you will find in his balance sheet each year, his operating statement each year, then you probably would find that it is a recurring thing and it does have an effect on commerce.

I could not answer you that, because there again, the circumstances surrounding each case will throw a little different light on each case.

Mr. WILSON. Do you consider any degrees of remoteness with regard to what goes into the manufacture or supply or the transportation of goods across State lines?

Mr. DENHAM. I do not know if I exactly get what you mean by "remoteness."

Mr. WILSON. Well, I mean this: Can anything that affects interstate commerce, or commerce as the term is used in the act, and it is synonymous—

Mr. DENHAM. They are both the same.

Mr. WILSON. Synonymous. Would there be anything that affects commerce as used in this act that would be too remote to consider?

Mr. DENHAM. I may be awfully dumb, but I do not get what you mean by the term "remote."

Mr. WILSON. I am sure I am not making myself clear. I mean the little cases that are too small to consider, you pitch them out, regardless of principle?

Mr. DENHAM. Not necessarily. You may find cases, very tiny cases, in which the principle involved is so important that you cannot ignore it.

The CHAIRMAN. Yes and no.

Mr. WILSON. All right, I will get at it this way: Do you believe there is in this country any man, woman, or child who has not in his wearing apparel or in his house or in some way connected with his business or personal life something that would not come under this act if this thing is carried to its logical conclusion?

Mr. DENHAM. Well, I do not think you could ever carry it to the conclusion of the individual. It is business that we are involved in here, business as a part of commerce.

Now then, the mere fact that you may wear a suit that is made of cloth that came from England does not affect you so far as commerce is concerned, but it affects the tailor who bought it.

Mr. WILSON. If I were in business it would affect me. If I had employees working for me, or if I were a laborer, it would affect me.

Mr. DENHAM. If you dealt in that clothing, that kind of material.

Mr. WILSON. Or anything.

Mr. DENHAM. But the mere fact you happen to wear it or use it does not mean that. You may buy tomatoes that are imported from the Bahamas and the distributor who buys them and distributes them would be engaged in commerce, but if you eat them, that does not make you—

Mr. WILSON. But if I resold them. We are talking about business. If I resold them, I would come under the act.

Mr. DENHAM. I think that you would then, under the decision, be within the area affecting commerce.

Mr. WILSON. Now let me ask you this: How would a hotel be distinguished from or different from an office building in Memphis, Tenn., which rented two rooms to an out-of-State concern? What would be the difference?

Mr. DENHAM. They are all within the act, and the courts have so held. Loft buildings that are engaged in manufacture, the operation of the loft buildings, the operation of office buildings in which business affecting commerce is carried on, is within the jurisdiction.

Mr. WILSON. You put them all in the same category?

Mr. DENHAM. Yes, sir. The courts have sustained us on that.

Mr. WILSON. Is there any percentage that you determine that by?

Mr. DENHAM. There have been attempts made to fix percentages, but not with a very great degree of success. I think one of the most fantastic illustrations of that sort, which incidentally preceded the Taft-Hartley Act, was the holding that window cleaners in an office building in which there were offices engaged in interstate commerce were themselves in a business affecting commerce, and the business which hired them was in a business affecting commerce.

Mr. WILSON. Because they had tenants who were?

Mr. DENHAM. Because they cleaned windows that allowed the tenants that were doing interstate business to see out and see well. Those are decisions that stood before the Taft-Hartley Act came along.

Mr. WILSON. Well, if you carry the theory that hotels, restaurants, and bars which are purely local in all their business except some things, affect commerce, to carry this theory to its logical conclusion that is not so ridiculous, is it?

Mr. DENHAM. No; it is not impossible.

Mr. WILSON. It is not so ridiculous then to say that a window cleaner who cleaned a window of some coal soot so a man could read a letter and look out and see the scenery would be affecting commerce?

The CHAIRMAN. If he looks across the State line he is.

Mr. WILSON. Regardless of whether he looks across the State line, you finally get it down to where, if his eyes were strong enough, he could look across a State line.

Mr. DENHAM. Well, there might be something to that. If the letter that he was reading came across a State line, that might have some effect on it, facetiously speaking, of course.

Mr. WILSON. Your department has plenty to do without taking in hundreds of thousands of others.

Mr. DENHAM. There is no danger of that, of having hundreds of thousands of those other cases. We are not swamped by any means. We are managing to get by pretty well, and we are taking them and we are assuming jurisdiction over such cases that come to us which do affect commerce in a sufficient degree to justify it.

Mr. WILSON. Do you think it would be advantageous at all to the general public or to your department or the Government or States' rights or anything else if the Congress would amend this act to absolutely, specifically defined interstate commerce?

Mr. DENHAM. Well, it would avoid questions upon us if it were done in such a fashion as would absolutely define it and remove all questions. But that is an awful chore.

Mr. WILSON. I will admit that would be an awful chore.

Mr. DENHAM. And you will invariably, I think, find that you will have to leave an area of discretion and definition to the agency that is administering the law.

Mr. WILSON. I think you are correct about that, regardless of what definition you write into the law.

Mr. DENHAM. Quite right, and that is what we have now.

We have been unable to find any definition which limits the term "affecting commerce."

The CHAIRMAN. So you extend it.

Mr. DENHAM. We do not extend it; we simply apply it.

The CHAIRMAN. Where it never was applied before.

Mr. DENHAM. Where the Board found it would not effectuate the policies of the old Wagner Act.

The CHAIRMAN. Now, you think it is necessary to effectuate the policies?

Mr. DENHAM. I think it is absolutely necessary.

The CHAIRMAN. You said a moment ago you had to have it to protect the little fellow.

Mr. DENHAM. Yes, sir.

The CHAIRMAN. Now, do you remember that case of Maggie O'Neill? That always sticks in my mind, a case in the Washington Supreme Court, where Maggie, the widow, had a boarding house or rooming house, rather, and she and her in-laws or children performed all the work, and they held that the union could picket her.

Now, they protected the members of that union, and Maggie was not engaged in any interstate and foreign commerce.

Mr. DENHAM. I must confess I am not familiar with the Maggie O'Neill case.

The CHAIRMAN. I will give it to you.

Mr. DENHAM. I used to practice law in the State of Washington, but that probably came after I left there.

The CHAIRMAN. Yes; some of this New Deal stuff.

Now, the Court decided that way. The judges all disagreed with the opinion, which may seem strange to a casual thinker. They said it was not a good opinion, all of them; but five of them said that inasmuch as the United States Supreme Court had decided—I have forgotten the name of the case—some other case, they would have to follow the United States Supreme Court.

And they said in there that it affected the man who would mow his own lawn; he had to join the union.

It protected the union, don't you see, by compelling that fellow to pay his initiation fee. So in that case the little fellow who belonged to the union, the union, and the treasury of the union all were protected, regardless of the fact there was no interstate commerce in that thing.

Mr. DENHAM. Well, I am not familiar with that.

The CHAIRMAN. Does that not shake your conclusion?

Mr. DENHAM. I could not discuss it, because I do not have it.

The CHAIRMAN. We have it downstairs. We will have a girl bring it up.

But you say you are still of the opinion that we have to have interstate commerce in this thing in order to protect the little fellow from unlawful union activities?

Mr. DENHAM. Under this law, sir, I think any action of the Board we take which puts machinery in motion must be something which is tied into the commerce powers of Congress, and it must be tied into something which affects commerce.

The CHAIRMAN. Broadly speaking, that may be true, but the corner grocer and the fellow that wants to work for him—at least the fellow who wants to work for him is not engaged in interstate commerce, unless you hold that just by getting a job in the corner grocery that puts him in commerce, and when I say "commerce" I mean interstate commerce.

Mr. DENHAM. Well, if the corner grocery store is in a business affecting commerce, the employees would come within the purview of the law.

The CHAIRMAN. Suppose all the person has is a roadside stand, and they boycott him, the teamsters' union boycotts him. Has he not a remedy?

Mr. DENHAM. I do not think it does under this act.

The CHAIRMAN. We certainly wrote one in there. Do you mean that the Court would throw it out because commerce was not involved in there?

Mr. DENHAM. I think so; yes, sir.

The CHAIRMAN. Because the Federal Government has no jurisdiction except over commerce?

Mr. DENHAM. That is right.

The CHAIRMAN. Do you have some questions, Mr. Harvey?

Mr. HARVEY. No.

The CHAIRMAN. I think that is all I have.

Mr. WILSON. You do think though, Judge, that if Congress would arrive at a definite decision to amend this law, it would diminish the difficulty you have with it?

Mr. DENHAM. You mean by defining this term "commerce"?

Mr. WILSON. Defining the term "commerce."

Mr. DENHAM. I am afraid it would increase my headaches. It is much easier for us to take the broad definition than to attempt to define and apply a split-up one, which would be a constant source of controversy as to what it means.

Mr. WILSON. You mean it is much easier just to include everybody than the few that the law is intended to affect?

The CHAIRMAN. And tends to end unemployment.

Mr. WILSON. Then there is no question about any decision in the matter. You just apply it to practically every business in the country.

Mr. DENHAM. Every business that affects commerce is within the purview of the law.

Mr. WILSON. Back to my original question: You gave two examples of those you thought would not come under the law.

Mr. DENHAM. No; I gave two illustrations of cases that we have dismissed that have come to us.

Mr. WILSON. Can you think of any others?

Mr. DENHAM. I do not have any others in mind at the moment that we have dismissed on jurisdictional grounds.

Mr. WILSON. But you do recall those two?

Mr. DENHAM. Yes, sir.

Mr. WILSON. Do you think now of any other business that would probably not come under the act under your thought about the matter, putting new rules in? What about a corner filling-station man?

Mr. DENHAM. We have some of those.

Mr. WILSON. He sells gas to people maybe from Tennessee, Michigan, or New York.

Mr. DENHAM. We have taken jurisdiction over some filling stations where, even though they got their gas locally, they served trucks engaged in interstate commerce, and where they served businesses that are engaged in commerce.

The CHAIRMAN. What about tourists going through that buy their gas?

Mr. DENHAM. Well, the occasional tourist is passing over State lines, and if there are enough of them, we will probably find that. But with the single man, again you run into a question of whether it is a substantial part of the business when you come to just the question of the tourist.

Mr. WILSON. What do you mean by "substantial"?

Mr. DENHAM. Not if the man served two or three a week out of many hundreds.

Mr. WILSON. That would be a minimum situation?

Mr. DENHAM. Again you get into the question of de minimis.

Mr. WILSON. But suppose out of a thousand—we will just say that offhand; a thousand a week—he serves 100 per week passing along a United States highway.

Mr. DENHAM. Well, I would not want to give you an answer on that right offhand. If it was nothing but tourists you might be able to justify the utilizing of the services of the Board in that case.

Mr. WILSON. But you do believe under your construction—and I am asking for information—

Mr. DENHAM. And I want to give you all the information I can, sir, but I do not want to commit myself—

The CHAIRMAN. On something that might come up next week?

Mr. DENHAM. I am perfectly willing to stand behind anything I say or do.

The CHAIRMAN. But you do not want to give an advance opinion?

Mr. DENHAM. I do not want to give an advance opinion on anything I do not know about factually.

Mr. WILSON. I appreciate that. I am not too familiar with it anyway, to begin with. But, suppose you have a refinery in east Texas where they do sell oil. I mean gasoline; and oil, of course, is refined right there and is sold right there. Just how many interstate trucks would he have to serve before he would come under the act?

Mr. DENHAM. I think that you would find in a case of that sort, a refinery, that undoubtedly a substantial amount of his business went to other people who used it in connection with interstate commerce through the pipe line or to local manufacturers, the local people, or trucks passing by. Now, then, when you are dealing with trucks, you have got a very different situation than you have when you are dealing with tourists.

Mr. WILSON. When we think about a refinery we think about a big company that ships oil in trainloads and truckloads. But I am talking about a lot of little refineries who refine east Texas gas, who have their own trucks and who sell it to local trucks who haul it 200 or 300 miles.

Mr. DENHAM. Well, I would want to look at the whole picture before I give an answer.

Mr. WILSON. I wondered if there was any fixed yardstick.

Mr. DENHAM. There is no fixed yardstick. These cases must all be handled on a case-to-case basis, because no two of them are identical. If you attempted to fix a yardstick on matters of that sort, you would find yourself in difficulty right off the bat. Consequently, we have to evaluate all the facts that are involved.

Mr. WILSON. I believe that is all.

Mr. HARVEY. Mr. Chairman, I would like to ask a question.

The CHAIRMAN. Yes, sir.

Mr. HARVEY. You mentioned a few moments ago, Mr. Denham, that you did not contemplate any increased amount of responsibilities or activities on the part of the Board due to this new interpretation. Since you are apparently involving a tremendous increase in numbers of people who are potential customers of yours, by what reasoning do you think that your activities will not be increased measurably?

Mr. DENHAM. We have increased our force considerably since the 22d of August. We anticipate further increases which have been provided for in our budget. They are a part of our staffing plans—as rapidly as we can get competent people to do the jobs.

I did not mean to say that we are static and that we have been static. We realize that we must take care of an increasing volume. We are prepared to do it.

Mr. HARVEY. Proportionately, would you have any idea of the number of increased personnel? I am speaking of employees now——

Mr. DENHAM. Yes, sir.

Mr. HARVEY. Of commerce that will be involved under this new interpretation as compared with what were involved under the old Wagner Act.

Mr. DENHAM. If you take the building and construction industry alone you have something over 2,000,000 men who are involved in that industry alone. Now, they are thrown into our lap. I feel that Congress made it very clear in its legislative history of this law that they intended we exercise jurisdiction over that industry.

You are dealing with hotels. We have had none of them come to us yet that I know of. There may be some cases pending in some of the regions. We will not find out about them until they get to the point where complaints are ready to be issued.

I could not give you an estimate of how many employees would be affected by this business of asserting jurisdiction where the Board previously did not find that it would effectuate the policy of the Wagner Act, you see.

Mr. HARVEY. Do you have any idea of the approximate number of employees that were covered under the old Wagner Act?

Mr. DENHAM. No, sir.

Mr. HARVEY. You would not have any guess?

Mr. DENHAM. I just could not begin to even remotely guess on it.

Mr. HARVEY. But it did not involve the so-called small businesses?

Mr. DENHAM. Well, now, I cannot say that. It did involve many small businesses; many of them.

Mr. HARVEY. Can you give me an illustration?

Mr. DENHAM. Well, I am trying to think of the outstanding case, the Feinblatt case, I believe, where a concern made clothing, as I recall. I may have the facts in this case wrong; it has been a long time since I have seen it.

I recall that was a case where a concern took cloth that was cut in New York, and they processed it into suits for this concern, and then, as I recall it, it either went back to New York or it was picked up and carried on by the original owners in trucks to some other spot. But it was a small business.

It was in that case, I remember, that the Supreme Court dwelt rather considerably on this question of what affects commerce and whether it is a small or large business.

The Board has processed literally hundreds of representation cases, for instance, involving two or three or four employees. If they process them for purposes of representation, they have to process them for purposes of their labor practices. So, when you talk about small business, I would say that we have probably conducted more cases over the years with reference to businesses that employed less than 200 people by far, than we have those that employed more.

Now, that is purely a guess. I have had no occasion to make a study of it.

I may say we did make a study of the cases in which we have held these union-shop elections since the 22d of August, and I do not have that study before me now, but in that case we ranged from employers with two or three and even one employee up to those that employed thousands of employees. And way beyond the greatest proportion of those were in the lowest range of the brackets, indicating, as I said, small business in the general sense.

Mr. HARVEY. You have indicated, Judge, that each case must be determined on its own merits. In other words, you have to measure each case with a different yardstick?

Mr. DENHAM. Well, we have to measure each case. Now, so far as fixing the yardstick as to the percentage and things of that sort, there are other factors that—

The CHAIRMAN. I think what he means is that they use the same yardstick but they do not all fit in it.

Mr. HARVEY. Possibly it is an elastic one.

Mr. DENHAM. It might be one of these things a carpenter carries around and folds up into 6-inch lengths.

Mr. HARVEY. Just this one question that I want to ask you. As a policy—and I assume you and your Board do have a policy in this new manifestation of your activities—are you openly soliciting these folks to bring their cases to you?

Mr. DENHAM. Heavens no. We do not solicit anything.

Mr. HARVEY. In other words, you are not out hunting more business?

Mr. DENHAM. Not by any means. We are open for business whenever people who are entitled to do business with us come into our office. Our offices are there to receive business if they have business to do with us.

The CHAIRMAN. Do you follow closely the Santa Cruz Packing case?

Mr. DENHAM. Yes, sir.

Mr. WILSON. Do you consider in any degree the same standards that the Fair Labor Standards Act sets up or that they follow in these cases?

Mr. DENHAM. I do not know, sir. We do not feel that we are governed by the Fair Labor Standards practices. Their law is considerably different than ours.

Mr. WILSON. You do not consider giving that any weight, as far as your decisions are concerned?

Mr. DENHAM. No, sir.

The CHAIRMAN. We want to thank you, Mr. Denham.

Mr. DENHAM. Thank you.

The CHAIRMAN. Mr. Brown wanted to make a brief statement.

Mr. BROWN. I will make it as brief and as rapid as I can.

STATEMENT OF J. W. BROWN—Resumed

Mr. BROWN. Under the Wagner Act the Board did not assert jurisdiction in a number of cases where they questioned whether they covered the particular industry for two primary reasons: First, they said this particular case did not effectuate the purposes of the act; second, they said the business was local in character.

Now, there are some pretty definite cases on this. Here is *McDonald Cooperative Dairy Co.* (58 N. L. R. B. 552), a 1944 case. In this particular case the company was engaged in general dairy business. Its gross sales were 2½ million dollars. Its purchases were about \$1,815,000. These are 1943 figures. Purchases outside the State of California—I believe this was California—were \$39,000. Sales outside of the State of California, or the State where this arose, were \$29,000, and the sale of 20,000 pounds of powdered milk to the United States Government.

This is the Board's decision in that particular case:

"While we do not find that the operations of the company are wholly unrelated to commerce, in view of the essentially local character of the company's business,

we do not believe that the policies of the act will be effectuated by asserting jurisdiction in this case."

They turned down the petition.

The Consolidated Vultee Aircraft Corp. case, which I mentioned in my testimony this morning, was of this nature: A studio commissary service company operated a restaurant for Consolidated Vultee under a contract. The union sought certification for the studio's employees. It contended that the employees were actually employees of the Consolidated Vultee, as well as the commissary.

The Board held:

"While the evidence clearly establishes the fact that Consolidated is within the purview of the act, no evidence was adduced showing that a strike involving only the employees of the commissary would burden or obstruct Consolidated's production processes. Under these circumstances, we are of the opinion that the policies of the act will not be effectuated by asserting jurisdiction in this case."

The CHAIRMAN. Now, Mr. Denham, I might ask you, in your judgment, would the policy be different now in those two cases?

Mr. DENHAM. Well, in the dairy case where you have \$29,000—

The CHAIRMAN. And about 2½ million dollars worth of business.

Mr. DENHAM. I am not so sure we would go into that. I would not want to say "yes" or "no." I am not so sure. I think we would stop and look at it very seriously before we did anything about it.

The CHAIRMAN. How about the Vultee case?

Mr. DENHAM. On the Vultee case, I am inclined to think we would go into that.

The CHAIRMAN. If they are not fed, they cannot work.

Mr. DENHAM. That is right.

The CHAIRMAN. So you do not get any airplanes.

Mr. DENHAM. That is right.

Mr. BROWN. Well, there were additional facts there. Even though this was the only cafeteria within the plant, some distance from the plant and outside the plant's property there were several other cafeterias.

The CHAIRMAN. But they would have to take time off to go to them.

Mr. BROWN. But I call the committee's attention to the fact that the question of whether or not some of the products served by the restaurant were purchased outside was not even considered, and that is now being considered under the present law.

For instance, the milk that was used; maybe it came from outside the State; maybe it did not. Maybe the powdered eggs or the canned goods came from outside the State. This was a large corporation engaged in the business of serving an industrial plant. No doubt they purchased without the State. Those facts were not considered significant.

Here is another case: this occurred right here in Washington. It was the Air Terminal Services, Inc., and United Cafeteria Workers, found in 67 NLRB 702. Here this company operated the cafeterias and the in-flight service at the National Airport. They prepared the food that was put on the airplanes. They served meals in the restaurants at the airport. They served meals at the terminal cafeteria for the employees who worked there.

Now, the Board held that they had jurisdiction there, but this is what they said:

"It is true that we have not generally asserted jurisdiction over restaurants on the theory that their operations are essentially local in character. However, the record of this case clearly indicates that the present situation falls outside the scope of this policy. The operations here involved form an integral part and are essential to the proper functioning of the Washington National Airport."

They pointed out that about 75 percent of the food that went into the airplanes, and some of it going outside the United States, was prepared by this restaurant, and they showed in the facts that the airport would be seriously hampered if there was a strike at this place.

Now, coming to the question of de minimis, we have a situation that is actual in a city in the United States where we have one particular tavern that employs one bartender. This bartender serves wine and beer. This establishment is part of a group of 800 who negotiate with the unions as a unit. They negotiate a single contract for about 800 separate employers.

I suggest to you that if you reject the one-tavern case, the case of the tavern that employs one bartender, on the ground that it is too small to bother with and not much commerce is affected there, that you must reject all 800. The mere fact that they negotiate as a unit does not make them a single employer with a great deal of commerce. It is 800 separate employers.

I disagree with the position that I think Mr. Denham's office is going to take in this matter, but I am guessing what they are going to do. I do not know definitely. But from what has been said, I assume that if you negotiate a single contract for 800 taverns there is a substantial effect on commerce. If you negotiate a single contract for one tavern there is not a substantial effect.

The CHAIRMAN. What would you care to say about that, Mr. Denham, if you care to say anything at all?

Mr. DENHAM. I think that if you have a group of that sort that you have then a single employer. The association is the contracting person, acting on behalf of all of its members. You would probably have a very different situation than you would if you had simply the single, one-employee tavern.

The CHAIRMAN. That is to say, the employer would be engaged in interstate commerce?

Mr. DENHAM. There you get a situation in which all the facts may have a bearing to swing it one way or the other. It is extremely difficult, with just that information before you, to make a categorical answer. I am inclined to the feeling that with an association of that sort that covers a large group and speaks for a large group and contracts for a large group, each one of whom is bound and governed by the same agreement, you would find a situation very different than the one with a single, small employer.

Mr. BROWN. Well, I suggest that the association simply acts as the bargaining agent for individual employers, but the actual employer in each case is the owner of the separate establishment, and it is simply a multiplication of small operations.

Now, on this question of the enlargement of the work of Mr. Denham's department. Take, for example, the situation of my client. The Hotel and Restaurant Employees International Union has approximately 425,000 members. At present we estimate the coverage under the old rules and the old assumption of jurisdiction by the Board was about 20,000 under the act. The present policies would add 400,000 members of our union to the coverage, if Mr. Denham is going to extend it to every small establishment who affects interstate commerce in any way at all.

We are only one union of many that are involved in this sort of practice. Another one I was thinking of offhand is the retail clerks, who are in a similar position.

Now, on the question of jurisdiction itself, there has been no change in the statement giving the Board or Mr. Denham's office jurisdiction from the Wagner Act to the Taft-Hartley Act. The wording is identical.

The CHAIRMAN. I do not think that you need to argue that.

Mr. BROWN. I want to show what the change is.

The CHAIRMAN. The change of policy, as I understand it, is due to the fact, according to Mr. Denham, if I get his testimony, that various new remedies have been provided for different groups and individuals.

Mr. DENHAM. Yes, sir.

Mr. BROWN. Yes, but—

Mr. DENHAM. And the implication in section 10 (a) is that the Congress expects this Board to assert jurisdiction over those matters that do affect commerce and not to cede that jurisdiction, although they have the power to, to other agencies unless there is that consistency. I do not mean to say they have the power to cede it without that consistency; they are barred without that consistency of law and application. I think that in itself confines us.

Mr. BROWN. In the legislative history of the act it was clearly indicated that Congress intended to cover the construction trades. I think that is agreed by most people, because Congress passed the action which dealt specifically with jurisdictional disputes, and they arise most frequently in the construction trades.

But, there is nothing in the legislative history of the act to indicate that Congress did intend to extend the jurisdiction or to urge the Board to extend its jurisdiction down to the small one- or two-employee shop that happens to purchase something that was made in interstate commerce or in other manner affects interstate commerce.

I do not think Congress had that particular effect of the law in mind at all, and I do not believe that an extension to the small establishment or to the establishments that were normally omitted from the jurisdiction of the Board was intended by Congress.

The CHAIRMAN. Now, let me ask you this: Of course, I do not know what Congress had in mind; I do know what some of those who were on the committee

had in mind in writing the act. Take this statement: Here is the corner grocer who sells only to his local people.

He gets his goods some from inside and some from outside the State, but he gets them through a trucking company or from teamsters who travel from a warehouse within the State to his place of business within the same State.

Now, Mr. Denham's suggestion, as I got it, was that in order to protect the corner grocer and his clerk we had to find that they were in interstate commerce. Isn't it true that the Board would have jurisdiction because the teamster is engaged in interstate commerce or business which affects interstate commerce in hauling that which comes from the warehouse? It comes from outside, but it comes to the warehouse, and then the teamster picks it up. Isn't he in interstate commerce the same as the railroad that brings it in?

MR. BROWN. Unquestionably the teamster under those circumstances would be engaged in interstate commerce.

THE CHAIRMAN. Why do you have to say the grocer is engaged in interstate commerce?

MR. BROWN. You have to unless Congress has no right to pass a law affecting the grocer.

THE CHAIRMAN. But the Department of Justice told us all the time that jurisdiction ends when the goods are delivered, not to the ultimate consumer but to the retailer. We had that in the Dock Street hearings. That was the theory all the way through—that the racketeering law, for instance, did not apply because the retailer was not engaged in interstate commerce.

MR. BROWN. Of course, this law is broader than the laws you are referring to.

THE CHAIRMAN. No; the racketeering law is the same thing. That Hobbs amendment.

MR. BROWN. Well, the question of being engaged in interstate commerce and doing something which affects commerce is entirely different. This law is written in the broadest terms conceivable, because, as Mr. Denham says—

THE CHAIRMAN. So is the racketeering law.

MR. BROWN. Almost everything affects interstate commerce.

THE CHAIRMAN. Isn't it true now that this grocer is entitled to protection and can make a complaint against the teamster, not because the grocer is engaged in business which affects commerce but because the teamster is?

MR. BROWN. That would be the basis of a complaint against the teamster, but that would not necessarily mean the grocer was not engaged in business affecting interstate commerce.

THE CHAIRMAN. It does not mean he was, either, does it? He is entitled to protection under the law which gives the Board jurisdiction over the teamster. The grocer, if affected wrongly by it, is entitled to protection, is he not?

MR. BROWN. There are cases where a business house has rights under this law where he himself is not engaged in interstate commerce. For instance, in a secondary boycott, Mr. Denham, would you say that the person being boycotted, when interstate commerce is involved or some act affecting interstate commerce, would actually be engaged in interstate commerce if he is hurt by the secondary boycott?

MR. DENHAM. I would say if he is going to file a charge we would have to find the business involved was one affecting commerce.

MR. WILSON. But you could enjoin that secondary boycott regardless of whether or not that local merchant was in interstate commerce or not.

MR. DENHAM. I am not so sure about that.

MR. BROWN. Suppose there was a strike against an establishment that is engaged in interstate commerce, and as an outgrowth of that particular strike a secondary boycott is directed against someone not engaged in interstate commerce; it is an outgrowth of one that is under the jurisdiction of the Board. Wouldn't you take jurisdiction in such a case?

MR. DENHAM. We probably would get a charge from the primary employer.

MR. BROWN. That is right. That is the case the chairman has put to us, I presume.

THE CHAIRMAN. That is all you had, Mr. Brown?

MR. BROWN. Yes; that is all I had.

THE CHAIRMAN. There are only two more witnesses, and then, I might say, as far as I am concerned, unless someone has some other witnesses they want to call, that will conclude the hearings and we will get the record printed and write a report and submit it to the Labor Committee.

THE CHAIRMAN. Now Mr. Horn is here and would like to be heard.

STATEMENT OF HERBERT HORN

Mr. HORN. Mr. Chairman and members of the committee, my name is Herbert Horn, attorney, 1421 Atlantic Avenue, Atlantic City, N. J.

Atlantic City is a resort town, as you probably all know. We have a number of hotels there. As a matter of fact, hotels are our industry there. We have some rather large hotels, maybe 12 or 13 in number, and we have some smaller hotels. As a matter of fact, there are many more small hotels than large ones.

I represent the hotel association and, as a matter of fact, I am representing certain of the hotels in connection with the negotiations with labor at the present time, including Mr. Brown's union, and the bartenders' union, and some others.

We have had no labor difficulties from the standpoint of any strikes, work stoppages, or anything like that at any time with labor. As a matter of fact, we never considered ourselves within the Wagner Labor Relations Act, nor do we consider ourselves—at least we never did—under the Taft-Hartley Act. As a matter of fact, we never considered ourselves engaged in interstate commerce in any degree. It is true that in some instances merchandise is brought from across the State line by purchasers, brought there for the purpose of getting food, and so forth—all the other things that go into the operation of a hotel.

But, from the standpoint of affecting commerce, we take the position that if our hotels closed, from the standpoint of industry, it would not affect interstate commerce at all. And that is one of the chief reasons we felt that we were not engaged in any business which affects interstate commerce within the meaning and intention of the act.

Perhaps within the strict language of the act it may be said that we affect interstate commerce if you say that a man who comes from across a State line would not have any place to stay. But from the standpoint of affecting interstate commerce by impeding it or by affecting any large scope of it, we say that we do not do so.

Now, we feel that the Labor Relations Act was passed for very definite purposes. There is no question that the real reason for it arose because of a national emergency—not a local emergency such as in the case of a resort town, not alone like Atlantic City, but there are thousands of them all over the country, I believe.

The reason, it seems to us, and the very purpose of the act, was to relieve national emergencies or large areas where emergencies develop which would impede commerce in such a way that people are deprived of things; for example, coal, railroads, and all those large industries.

We feel that we have not suffered—the hotel industry at least has not suffered—by reason of the fact that we never had to apply, never did apply, never thought we could apply to the National Labor Relations Board. We feel that we have adequate help if we need it from the standpoint of any litigation or restraints under our own law.

There is another thing that it seems to me goes to show the intention of the Congress in this act. The little man, from a practical standpoint—and these hotel operators are, generally speaking, little men from the standpoint of business—is little business. This is a highly specialized thing. We do not want to have to come to any Federal bureau for a comparatively small matter affecting our business.

We do say that we do have adequate protection in our own courts. As a matter of fact, if we were compelled to do so or could be brought in—and I am talking about the little hotel men, and it might also apply to perhaps some small unions—we could just not do it. And that is all there is to it. That is for the simple reason that it requires money to go out and retain these high-priced lawyers who specialize in these types of things.

The CHAIRMAN. Are you a lawyer?

Mr. HORN. Yes, sir, I am.

Now, there is another thing that we feel, and that is that when the National Labor Relations Board takes jurisdiction over such widespread an industry—by that I mean the little men—they set precedents in their decisions. One precedent which may have been set out in California might, and generally would, be construed to be applicable in New Jersey or perhaps in Wisconsin. When that happens, they are departing from the intention of the act, because they are going to apply a precedent from one side of the country to the other side of the country, when we know that the conditions all over the country are very much different.

Our hotels in Atlantic City operate perhaps much differently than out in California, for various reasons. Perhaps it is in the costs, or where they purchase their products, and all those things. There are no two operations exactly alike

in various areas, and, therefore, we do not think that they should or were ever intended to come within the control of the National Labor Relations Act.

Now, from the standpoint of what Mr. Denham has said, there is no doubt, and I think he at one time conceded it, that he had the power at least to interpret the little business out of control. And I still think he does have the power. He has got the power to say that the act was never intended to affect hotels.

THE CHAIRMAN. Shouldn't that argument be directed to him rather than to us?

MR. HORN. Well, sir, I think from the standpoint—

THE CHAIRMAN. There isn't much use in telling us what power he has, when he exercises it, I guess, is there?

MR. HORN. Well, except from the standpoint as it may come before the committee I do not know. But it all boils down to this, it seems to me, and that is this: There used to be a saying in England that, "Chanceless" conscience was measured by his foot," and that is what it seems to me from what I have heard today from the standpoint of Mr. Denham's statement.

THE CHAIRMAN. What you mean is that he or the agency here has too much discretion?

MR. HORN. Not that he has too much discretion, but the discretion or the rulings are in accordance with the man not with the law. That is what I mean.

THE CHAIRMAN. That amounts to the same thing, does it not?

MR. HORN. Practically. And, therefore, as a matter of fact—

THE CHAIRMAN. You want a more accurate, all-inclusive definition of what affects interstate commerce?

MR. HORN. Not only that, sir, but we also want a definition excluding hotels.

THE CHAIRMAN. You want to come under "Exemptions"?

MR. HORN. Yes, sir; so there cannot be any doubt as to our position.

THE CHAIRMAN. You want to be specifically named?

MR. HORN. We want to be specifically exempted so that there cannot be any doubt as to our position under the act.

THE CHAIRMAN. You want something like section 13 (a) that is in the Fair Labor Standards Act? That might help hotels, but that would not answer the questions for the other fellows.

MR. HORN. No. I think it would help hotels. Perhaps there could be a measure—

THE CHAIRMAN. Have you any such measure in mind? I know that the Labor Committee would be very happy to have any suggestions for a definition of "affecting commerce."

MR. HORN. I do not know whether we could supply a definition of "affecting commerce."

THE CHAIRMAN. That is what is the matter right here, I guess: The Administrator's proposed interpretation. That is what brings this all about.

You do not need to have it now, but if you have anything of that kind that you want to suggest by next Monday, you may.

MR. HORN. I understand one will be supplied by next Monday.

THE CHAIRMAN. Thank you ever so much.

Is Robert J. Wilson here?

MR. WILSON. I am Robert J. Wilson, with the National Restaurant Association. I would like to ask permission in behalf of George Savage, chairman of our Government relations committee, to file a statement with the committee.

THE CHAIRMAN. Very well. If you have it in by Monday or Tuesday morning, that will be all right.

MR. WILSON. Thank you.

(The statement not furnished by the National Restaurant Association by time hearing went to printer.)

THE CHAIRMAN. That concludes the hearings.

(Whereupon, at 4:25 p. m., the subcommittee adjourned subject to the call of the chairman.)

Senator MORSE. Now, in these hearings, Mr. Denham, you were examined at some length, and I am not going to examine you at any length on this point.

You were examined at some length as to your interpretation of interstate commerce, and on page 17 of these hearings the following colloquy took place:

THE CHAIRMAN. And would the banks, in your opinion, come under the Taft-Hartley Act?

Mr. DENHAM. Very definitely. Insurance companies, as I recall—

The CHAIRMAN. Would hotels come under it?

Mr. DENHAM. Loft buildings, hotels. There were quite a number, and then the miscellany of little business.

The CHAIRMAN. That came under the New York State law?

Mr. DENHAM. The New York State board exercised jurisdiction over those without any interference from us at all, and in many of them, where we obviously could have asserted jurisdiction, we simply stepped aside and allowed the State board to handle them.

The CHAIRMAN. But your thought is that under the Taft-Hartley Act you now do have jurisdiction over those industries—businesses?

Mr. DENHAM. We not only do have jurisdiction, Mr. Hoffman, but I think our assertion of jurisdiction is almost mandatory. I refer you to section 10 (a).

The CHAIRMAN. Let me ask you right there: If a complaint were made you would feel compelled to take jurisdiction?

Mr. DENHAM. In the great majority of cases. I can readily conceive some, and there have been some, in which we have refused to take jurisdiction since the Taft-Hartley Act.

Then, on page 18, and I am going to select certain testimony here on which to base a final question, there is this following colloquy:

The CHAIRMAN. Am I correct, then, in the assumption that where any material comes in from across a State line and is used by the local industry, under the Taft-Hartley Act you have jurisdiction?

Mr. DENHAM. In my opinion; yes, sir.

The CHAIRMAN. And if complaint is made you will take it?

Mr. DENHAM. Oh, yes.

The CHAIRMAN. You are forced to?

Mr. DENHAM. Unless it would come within the de minimis doctrine of a few dollars involved, I think we would have no option but to accept it.

Then, dropping down:

Mr. DENHAM. I can conceive very few businesses over which there is not at least technical jurisdiction.

The CHAIRMAN. Assume that a man in my State had a dairy herd; he produced his milk, and it went to the local co-op creamery, and was made into butter. Of course, if that butter was sold outside you would say the dairy farmer would be under the law.

Mr. DENHAM. I do not think so if he sold it through the co-op.

The CHAIRMAN. But his milk went into the butter which went outside. What is the difference? This is the reverse of the coal case I just put to you. The farmer produces the milk which goes to the creamery, which goes out across the State line. In the other case the coal came from outside and went into the factory.

Mr. DENHAM. But the farmer loses control of his milk when he sends it to the co-op.

The CHAIRMAN. So does the fellow that sells the coal to the industry.

Mr. DENHAM. Well, he gets it from the outside, though.

The CHAIRMAN. But the farmer finally ends up with his milk outside.

Mr. DENHAM. But he did not have any control over it.

The CHAIRMAN. Suppose he bought a milking machine from outside?

Mr. DENHAM. I am assuming now that the question of agricultural workers is not involved in the thing.

The CHAIRMAN. That is right; so am I.

Mr. DENHAM. Yes.

The CHAIRMAN. And what we are getting at, so we will be sure we are not just frogging around, is this: We are trying to anticipate, if we can, trouble which may come, and then, while Congress is in session, meet it before it comes.

Mr. DENHAM. In the illustration given us of the dairy farmer who buys a milking machine from the next State, there you run into questions, I think, approaching the de minimis, and if there are capital expenditures, nonrecurrent, very frequently they will be overlooked and disregarded.

The CHAIRMAN. Of course, the cost of the coal in many industries where they make a highly specialized product is comparatively slight.

Mr. DENHAM. But the man who is dealing in the coal, the coal dealer—

The CHAIRMAN. But it is the factory I am talking about—the fellow who uses the coal.

Mr. DENHAM. Where does he get it from?

The CHAIRMAN. He gets it in Indiana from West Virginia.

Mr. DENHAM. Yes, sir. Well, that would be merchandise used in the conduct of his business.

And dropping down toward the bottom of page 19:

Mr. DENHAM. Those cases almost invariably have to be handled on a case-to-case basis, although there are general principles set up, and in time we find that a business within a given over-all industry would appear to be affected—be within the jurisdiction of the Board.

The CHAIRMAN. Do the hotels come under it now, in your opinion?

Mr. DENHAM. Yes, sir.

The CHAIRMAN. Why do they come under it? Because of the traveling men?

Mr. DENHAM. There are two or three factors. Hotels are very substantial buyers of supplies—linen and sopas and equipment of one sort and another—practically all of which pass through State lines in some place or another. The commercial hotels are designed to accommodate the traveling public, and on that score alone they are a factor in commerce.

The CHAIRMAN. What about local laundries?

Mr. DENHAM. There again you run into the situation as to whether they are laundries that wash the shirts of the local citizenry or whether they supply industrial uniforms or launder uniforms, and things of that sort, that are used in the general course of manufacturing of some of the concerns in that locality.

The CHAIRMAN. Suppose they just launder uniforms of General Motors, for example, in Detroit alone?

Mr. DENHAM. I would say that they probably would be regarded as affecting commerce.

The CHAIRMAN. Because the uniforms are worn by workers who are engaged in interstate commerce?

Mr. DENHAM. That is right. They go into it as a part of the operation of that business.

The CHAIRMAN. The laundry fellow buys his soap from across the State line. Does that bring him in?

Mr. DENHAM. We have had those questions raised, and I am sorry I cannot answer your question categorically. Again you run into the case-to-case situation. If he buys all of his soap from outside the State, his supplies, I think obviously his business has an effect on commerce. Now, whether it is a large or small effect is another matter, but it has an effect on commerce.

As I have said before, it is very difficult to find any business that does not have some effect on commerce.

The CHAIRMAN. Then there is a change in policy of interpreting the law, or in the interpretation of the "affecting commerce"; is there not?

Mr. DENHAM. There is a broadening of the application of it.

The CHAIRMAN. Would you think it is rendered necessary by this act?

Mr. DENHAM. Yes, sir.

The CHAIRMAN. And because of the provisions which were not contained in the old act?

Mr. DENHAM. Yes, sir.

The CHAIRMAN. Now, would you make that more definite? Just where in the new act do you find it? What are the words which, in your judgment, extend or broaden the definition of "affecting commerce"?

Mr. DENHAM. They do not broaden the definition of it, as I say.

The CHAIRMAN. Well, your interpretation of it.

Mr. DENHAM. It is the application of it. Under the Wagner Act, there was no prohibition on the Board's ceding its jurisdiction or allowing the State agency to go ahead on something until the Bethlehem Steel case, in which the Supreme Court said, if the National Board has the jurisdiction, the State board could not take jurisdiction.

The CHAIRMAN. Even with the consent of the State or the consent of the State board?

Mr. DENHAM. With the consent of the Board? I must confess that the decision of the Supreme Court on that score is not sufficiently clear. I mean, I do not recall it well enough to answer that, whether that point was raised, but usually it is the consent of the parties.

Now, in the Bethlehem case, as I recall, the question of jurisdiction was raised by one of the parties before the Board. I do not recall that our Board raised any question about it at all. It was the Allegheny-Ludlum-Bethlehem Steel case.

Thus, I could proceed through your testimony, Mr. Denham, particularly on page 24 and page 25, and the rest of it, and read similar observations on your part which lead me to this conclusion, the accuracy of which I want to check: That in your opinion, as general counsel, you have the unreviewable authority to pass judgment on whether jurisdiction will be taken in any business on the ground that it may affect commerce.

MR. DENHAM. No, sir.

Senator MORSE. That is not your position?

MR. DENHAM. No, sir. I have taken the position consistently that, if the Board will find that any case does not affect commerce, then that is good enough for me. It is the Board's job to make a determination in review after I may have——

Senator MORSE. Filed a complaint.

MR. DENHAM. Issued a complaint.

Senator MORSE. Yes.

MR. DENHAM. But in this situation, Senator Morse, that question has never been raised.

Senator MORSE. Well, I am raising it.

MR. DENHAM. It never has been raised as between the Board and me; and, so far as I am concerned, I have attempted to make it very clear that I have never raised a question as to the power of the Board to overrule any of the decisions of the general counsel on the question of whether commerce is affected within the meaning of that term, as it has been defined by the Supreme Court.

Senator MORSE. Suppose you issue—let me put it this way: In the first instance, you have complete power to issue a complaint, for example, over hotels, over laundries, or over barber shops or over any other business in America which your office decides, in your opinion, sufficiently affects interstate commerce as to come under your interpretation of the commerce clause.

MR. DENHAM. I have the same, in my opinion, sir, general, broad discretion that the Supreme Court said the Board had under the Wagner Act to make a determination as to whether or not a complaint should issue.

Senator MORSE. That is exactly the point I am seeking to draw out. You are exercising now the jurisdiction in issuing complaints over questions that arise as to whether a particular business affects interstate commerce which previously three men on the Board, by at least a vote of two out of three, were empowered to issue: is that correct?

MR. DENHAM. I would like to have the question read back.

Senator MORSE. Will the reporter read it back?

MR. DENHAM. I want to make sure that I understand your question. (The question referred to was read by the reporter.)

MR. DENHAM. I think we are possibly talking to different parts of the same question, Senator Morse.

The decisions of the Supreme Court and of the circuit courts of appeal, with reference to the area of discretion of the Board in the issuance of complaints, did not go to the question of affecting commerce, whether the Board has jurisdiction, statutory jurisdiction, but it goes to the question of the exercise of discretionary power which administratively is exercised as to whether in this particular case the complaint should issue.

Senator MORSE. I understand that.

Mr. DENHAM. There is a considerable difference there. It may be that conceivably there might be some effect on commerce.

Senator MORSE. I understand that, Mr. Denham.

Mr. DENHAM. And, still, it might not be the proper thing to issue that complaint.

Senator MORSE. I understand that.

Mr. DENHAM. Now, that is the area of discretion that I——

Senator MORSE. Exercise.

Mr. DENHAM. Exercise which, previously under the Wagner Act decisions, rested in the Board.

Senator MORSE. That is all I am seeking.

Mr. DENHAM. It goes to the question of the issuance of complaints only.

Senator MORSE. That is all I am seeking at this point to make clear in the record.

I am doing that, may I say, Mr. Acting Chairman, for the purpose of drawing out, without any criticism of this witness or reflection on him at all, because to me he is John Doe, in my discussion of the principle that I am discussing here this morning.

Senator DONNELL. Would the Senator yield for just a second?

Senator MORSE. Would you just permit me to finish this statement, and I will be happy to yield.

It is my point, Mr. Chairman, that the issuance of a complaint against an American businessman is a pretty serious thing, and it can become a great annoyance and inconvenience and it puts him to costly litigation. It holds him up in his community to public comment, and so on, and I think the procedure by which we issue complaints in this country in administrative-law matters needs to be pretty carefully safeguarded.

All I am seeking is to point out for the record, and I think the witness has so testified, that under the law in its present form, and as his testimony on May 7 as general counsel shows, the general counsel has the power to pass that first judgment as to whether a hotel or a laundry or a barber shop or any other small business in our local community so affects interstate commerce as to be subject to a complaint from the National Labor Relations Board. We have this confusion or conflict that I have previously pointed out, Mr. Chairman, in the examination this morning. The general counsel and the Board are not yet together on whether or not the general counsel should proceed to issue a complaint against parties in the same type of business so long as they are not the same parties that the Board previously had before it in an analogous case that was dismissed.

Now, in my judgment, it is the vesting of that type of broad discretionary power that I hope we shall modify in the new statute. Insofar as Mr. Denham is concerned, I am frank to say I would reach many conclusions opposite to the conclusions he reached on May 7 in discussing with the House committee what did, in fact, affect interstate commerce.

I have been heard to say on the floor of the Senate, and I will repeat this year, that we need to put the same type of safeguards I am interested in in the Minimum Wage Act so that the same broad arbitrary discretion is not exercised down in the Department of Labor in proceeding with complaints against citizens in our local communities.

If there is anything in our law that needs to be cleared up, I think it is to put in some specific rules and limitations as to what types of businesses can come under Federal complaints.

Mr. DENHAM. Senator Morse, may I suggest a correction in your statement?

Senator MORSE. If I made a misstatement, I surely want it corrected.

Mr. DENHAM. You made the statement that there was a schism between the Board and the general counsel on this question of jurisdiction, in that the general counsel maintains that he has discretion to continue to issue a complaint even after the Board, in an analogous case, has ruled that a complaint should not issue. That is not a fact.

Senator MORSE. Well, we will let the memoranda and exhibits speak for themselves. I submit to you, Mr. Denham, that it actually is a fact, as proved by these exhibits. You have not yet given the Board a specific answer to the inquiry that they made of you months and weeks ago on this very point, and until you do give them an answer, I say you are in conflict.

Mr. DENHAM. I think——

Senator MORSE. If you are not in conflict, tell the Board you are not in conflict, period.

Mr. DENHAM. The answer is contained in the next to the last paragraph of my December 30 letter on the subject of the general difficulties. But the Board is talking about representation cases which are an administrative part of the agency's business over which the Board functions.

Senator MORSE. I would just let the exhibits speak for themselves for the record.

Mr. DENHAM. The general counsel deals solely with complaint matters so far as his direct authority is concerned.

Senator DONNELL. Mr. Denham, I want to be sure I understand correctly your testimony. You were referring to the complaints as to the issuance of which you judge that the general counsel has the discretion under the statute.

Mr. DENHAM. That is right, by statute.

Senator DONNELL. Those complaints are complaints under section 10, are they not, of the Taft-Hartley Act?

Mr. DENHAM. That is right.

Senator DONNELL. I assume that you consider that your authority in that respect is, perhaps, derived from two facts: first, perhaps, that you are the general counsel, and, second, there is a specific provision in the act:

He shall have final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints under section 10, and in respect of the prosecution of such complaints before the Board, and shall have such other duties as the Board may prescribe or as may be provided by law.

Am I correct in my understanding?

Mr. DENHAM. That is right, sir.

Senator DONNELL. I understand further, Mr. Denham—and if I am wrong, please correct me—if you issue a complaint and the Board shall determine that the business with respect to which you issued it is not one that falls under the jurisdiction of the Board or of the Taft-Hartley Act, that you recognize the power of the Board to make that determination; that is correct, is it?

Mr. DENHAM. May I restate that? If it does not fall within the area of the statutory jurisdiction—

Senator DONNELL. Yes.

Mr. DENHAM. Why, certainly, that is the Board's job, not mine.

Senator DONNELL. In other words, you take the view that you have the discretion in the issuance of complaints, but that when the matter comes before the Board that it has the right to determine whether or not the particular subject matter of that complaint or the business involved comes within the area of the jurisdiction of the Taft-Hartley Act. That is correct, is it not?

Mr. DENHAM. That is correct.

Senator DONNELL. Now, I understood you to say that in analogous cases you do not consider that you are bound to defer or delay or deny the issuance of complaints because of what is by you considered to be the situation that in an analogous case the Board may have held that the business or the facts are not within the area of the Taft-Hartley Act.

Might I just ask you, before you answer that, first, whether I am correct in my understanding, and, in the second place, is it not true that in many cases, while there may be an analogy between the cases, that it is very difficult to determine whether or not, because the Board in case A has held one thing, that necessarily its decision is binding on case B, even though B may be analogous? There may be fact, may there not, that may differentiate the two, and you have exercised the discretion of using your best judgment to determine whether there is or is not such a distinction between the two cases. Am I correct? You will pardon me, but am I substantially correct in my analysis of your mental processes?

Mr. DENHAM. Of course, the analogous cases, Senator Donnell, if you want to say that they are matters arising under the Taft-Hartley Act that thereby they become analogous, then the statement is correct. But the matters which come to the agency for consideration fall, as you know, into two broad general classifications: Representation cases which are determined on an administrative basis—

Senator DONNELL. Yes.

Mr. DENHAM. And complaint cases which are determined on a quasi-judicial basis, and are enforceable in the courts.

Now, the Board has in its decisions that it has handed down, confined all of those decisions to matters pertaining to representation cases in which, in the main, labor organizations have filed petitions with our regional offices seeking representation.

Our regional offices have investigated the cases, as is their usual way of doing, and in many of them they have sought, suggested, and have obtained consent agreements, and elections have been held, and they go right on, and that is the end of that.

In some other cases, the employer—usually an employer—will say: "Well, I don't think the Board has jurisdiction because, after all, this business is essentially local, and I am not going to consent."

So then there is a hearing, and the case comes before the Board for its review in the usual manner, and in some cases the Board will say:

"The business of this company has an effect upon commerce, or is not foreign to commerce," or some such language of that sort which is an acknowledgment that there is an effect upon commerce in the pic-

ture, but in the opinion of the Board it would not effectuate the policies of the act to process this petition because of the local character of the business. That is the usual form that the order will take.

SENATOR DONNELL. Now, Mr. Denham, in a case like that, if you get over on the other side of the picture, namely, the filing of a complaint, am I correct in my understanding that you have not felt yourself in some instances, at any rate, bound by the decision of the Board in the representation case? I say, you have not felt yourself bound by that decision in determining whether or not you should or should not exercise what you have considered to be the discretion that you have of presenting the complaint to the Board of the alleged violation?

MR. DENHAM. That is right. I have felt that the rights of the individual employees, for instance, have not been litigated, and that they are entitled to some consideration.

This law was built for the little fellow as well as the big fellow and the employees of the little fellow as well as the employees of the big fellow.

SENATOR DONNELL. I can see, of course, Mr. Denham—

MR. DENHAM. And the unions.

SENATOR DONNELL. If the Board has held in a representation case that the Linnville Hotel in Maryville, Mo., is engaged in interstate commerce, and later on next week there is a complaint which comes up—comes up—rather say that it held that it is not engaged in interstate commerce and then the next week a complaint should be filed against the proprietor of that hotel, you may be, in the opinion of some, violating your duty, perhaps you are, or perhaps you are not, in going ahead, nevertheless, and filing a complaint in the Linnville Hotel case; but, as I understand, you have taken the view that even though the Board has passed on the matter in the representation case that you have a right to file the complaint and present the issue again to the Board in the complaint case to determine whether or not in that complaint case the subject matter does fall or does not fall within the terms of the act.

MR. DENHAM. That is quite correct.

SENATOR DONNELL. Yes; and I can see the ground of criticism; there may be those, as I can see Senator Morse has one of them—perhaps I should not say that—

SENATOR MORSE. I think you are just right; go ahead.

SENATOR DONNELL. As I understand it, his thought is that if the Board has acted in the representation case and has declared that the Linnville Hotel is not within the area that you should be bound by that when you file the complaint.

Now, maybe he is right on that; I am not saying whether he is or not, but I want to get your view. You felt, as I understand it, that notwithstanding the position of the Board in the representation side of the jurisdiction, you are justified under this act in again presenting the legal act of the Board in the complaint case.

But whether you are right or whether you are wrong in the matter, is something else. Am I correct in my understanding that that has been your position?

MR. DENHAM. My position has been that—

SENATOR TART. Can't you say "Yes" or "No," instead of saying it all over again? I do not like—

Mr. DENHAM. Very well. I cannot say "Yes" and I cannot say "No," because [laughter] questions of that sort are rather difficult to answer categorically.

The letter that has been criticized is one that instructs the regional directors to close such cases where the parties are the same—I mean, to dismiss them where the parties are the same. But to process them where the parties may be different even though they may be in the same type of industry, and the reason for it is borne out by the history of the decisions of the Board which are just about 50-50 on the industries involved.

You will find in one week a decision denying the processes of the Board to somebody in a certain industry, and the next week identically the same type of industry is admitted on grounds that we just cannot outguess them on.

For that reason I have instructed my people to go ahead and hold hearings and let the Board determine whether they want to deny the process to these parties.

Senator DONNELL. All I can say to Senator Morse is that I thank him for permitting the interruption. I want to say this to Mr. Denham: I am not undertaking to say by my questions that I shall ultimately agree or disagree with the view that you shall take. You may be wrong or right, but I want to get and be perfectly clear in my own mind the position that you have taken.

Senator MORSE. I was happy to yield for that purpose.

Mr. Chairman, there are two questions I want to raise, and because we are already running behind schedule, I would like to submit to this witness such questions in writing that I may want to submit to him in order to get certain factual information in the record that is not in this record, that I think his office can specially provide for this committee.

The CHAIRMAN. Without objection, it will be so ordered.

Senator MORSE. I want to get your reaction on the Northland bus case, Northland Greyhound case. In that case the Board had to decide whether to hold union-shop authorization elections among the employees of a bus company which operated in eight States, three of which prohibited union-security agreements, and one of which regulated such agreements.

In line with the previous decisions, such as the Giant Food case, the Board decided that no such election could be held in the States that prohibited union-security provisions. Looking at the statutory intent of the language of section 14 (b) of the Taft-Hartley Act, the Board concluded that it had authority to order a union-shop election in the one State that regulated union-security agreements, namely, Wisconsin.

On December 15, 1948, the general counsel issued field letter No. 116, the effect of which was to order regional offices to conform outstanding instructions to the Board's decision in the Northland Greyhound case.

On December 27, however, the general counsel suspended the instruction of December 15, by the following wire to regional directors:

Field letter 116 in re U. A. elections in regulatory States temporarily suspended. Until further notice issue no certifications. After objections period has passed issue tally of ballots without comment.

Now, my question is whether or not this suspension order has the effect of countermanding the Board's previous decision in the Northland Greyhound case.

Mr. DENHAM. No, sir; not by any means.

Senator MORSE. Could you clarify that, because I think it has led to considerable misunderstanding.

Mr. DENHAM. Now, I may say this: When the Northland Greyhound bus decision was in the course of preparation, a draft of it was brought to me by one of the staff of the Board, with the suggestion that in view of the position that I had taken leading up to the Giant Food Store case, he thought that I might want to take a look at this other thing, and possibly comment on it, because it recognized the Giant Food Store doctrine only insofar as it applied to States where the union-security provision was prohibited, and did not recognize any regulation where there was regulation requiring a stricter or a higher amount of majority or voting than was provided for under our law.

I wrote a memorandum to the Board suggesting that there was a possibility of bringing about the unfortunate position of having a man, having someone acting under our certification, commit an act which would bring him into conflict with the authorities of the State where they had a higher degree of performance required, and made the suggestion in that memorandum, if I remember it correctly, that instead of the Board's requiring the certification, the union-shop requirements had been met under all the provisions of section 8 (a) and 10 (e), I think, of the act, that they do nothing more than certify the results, which is incidentally, the language of the statute. The statute does not require certification. So that was the position that I was taking at the time.

I just did not want to get my own regional directors in a position of certifying something that might put a man in jail or require him to do something else that he should not do.

About that time the Supreme Court had under consideration—they have not rendered a decision yet, I think—the Supreme Court had under consideration the New Hampshire case, which is one that goes directly to that question.

Senator MORSE. Those decisions had not been handed down at the time of the wire?

Mr. DENHAM. They have not been handed down as yet, and it was in the melee of these things that these orders went out in the manner in which they did. But there was no intention to countermand or to do anything that would interfere with the Board's position.

Since then, I think, the instructions have gone out to apply, to conform to the Board's orders in those cases. There have been one or two other cases.

Senator MORSE. Here again, if the division of authority between the general counsel and the Board office were not as it now exists under the statute, this type of problem that has arisen under the case would not have arisen because the instructions would have been from the Board's office itself and would have raised no question as to being in conformity with the Boards' ruling.

Mr. DENHAM. Senator, as long as you have the Board exercising discretion and control over matters that are carried on in the field from the initial stages which require the inauguration and the accept-

ance of jurisdiction, on the one hand, and the general counsel in another field, intelligent men may differ on things of that sort, and you may have those differences of opinion.

Senator MORSE. I recognize that, and that is what I meant.

Mr. DENHAM. The smart thing would be to put them in one place. I would put them in the general counsel, and not the Board, but to have the Board act as a court.

Senator MORSE. It is perfectly obvious that what I seek to draw out here are events that substantiate my fear that the law in its present form is litigious. I think it is bound to be, when you have the power that the general counsel's office has, on the one hand, and independent from the Board on the other hand. I close this examination with this last case that I want to mention, again illustrating, it seems to me, the type of litigation we unnecessarily get into under this division of authority. I do not think we would have been in this conflict at all if we had followed the Administrative Procedure Act of 1946. I refer to the Perry Norvell case.

As I understand that case, your office urged the Board and the trial examiner to invalidate a strike which was not condemned by any specific provisions of the Taft-Hartley Act, and was not in violation of the no-strike clause in the contract. I have in mind the theory which you advanced in that case that a strike, even though peacefully conducted, may constitute constructive coercion. I think the record, Mr. Chairman, should show at this point in connection with the Perry Norvell case, the view that the Board took of the contention of the general counsel, that a strike may be illegal even though not specifically condemned by the Taft-Hartley Act. I quote from the Board's opinion.

Senator DONNELL. Who was speaking on behalf of the Board?

Senator MORSE. This is a memorandum. I think it was the Chairman of the Board who wrote the decision in the Norvell case, am I correct?

Mr. FINDLING. The Board decisions do not show which members wrote the opinion. They are signed by the full panel.

Senator MORSE. The Board said:

Section 8 (b) (1) (A) was not intended to have the broad and almost limitless reach which the general counsel urges upon the Board. The legislative history of the act shows that by this section Congress primarily intended to proscribe the coercive conduct which sometimes accompanies a strike but not the strike itself. By section 8 (b) (1) (A) Congress sought to fix the rules of the game to insure that strikes and other organizational activities of employees were conducted peaceably by persuasion and propaganda not by physical force or threats of force or of economic reprisal. In that section Congress was aiming at means not at ends.

Later on the Board said in the decision:

The logic of the general counsel's contention that the present strike is in and of itself unfair practice would require the outlawing of practically any strike opposed by some employees. The impact of a strike on employees who disapprove the strike is the same regardless of its purpose. Hence, if some employees should strike for recognition, in the absence of any bargaining representative, and other employees should oppose the strike and the union calling the strike, the strike would perforce be an unfair labor practice under the general counsel's reasoning because the strike would interfere with the right of some employees not to join a labor organization and not to bargain collectively, as guaranteed by section 7. However, during the course of the debates on the bill Senator Taft expressly denied that section 8 (b) (1) would have this effect.

That was the position taken by the Board, was it not, Mr. Denham, in that case?

MR. DENHAM. I would rather have Mr. Wells answer that question. The details of these things, you can well appreciate, Senator—

Senator MORSE. I appreciate that.

MR. DENHAM. I am not familiar with them.

Senator MORSE. That is why I say it is not a question between the two of us as individuals, but between us as a Senator, on the one hand, who objects to the broad power your office has been given, and the exercise of that power by your office.

Mr. Wells.

MR. DENHAM. Mr. Wells is the associate general counsel in charge of our Policy and Appeals Division, and is, I think, much more familiar with that than any of the other officials of the general counsel's office.

Would you be good enough to answer the Senator?

MR. WELLS. Senator Morse, in that particular case the theory of the general counsel's office was that the strike being conducted there by a union which is designated as a committee, was to compel the employer to recognize it as the exclusive representative of the employee rather than the union which held a contract at that particular time.

We did not take the position that any strike by the minority group was an unfair labor practice at all, only where the object of the strike was to compel the employer to do an illegal act, specifically prohibited by the act itself.

Senator MORSE. Mr. Wells, it is perfectly clear from the Board's decision, is it not, that the Board rejected your theory of the case.

MR. WELLS. Quite true. I do not think, if I may say so, Senator, that they specifically met in their decision the point that we raised rather thoroughly in our brief.

I think that they must have misinterpreted our position somewhat because we certainly did not take the position that any strike by a minority group was coercive per se.

Senator MORSE. It is true, is it not, Mr. Wells, that if there were not this division of authority within the Board between the general counsel's office and the Board, a case such as this would not have been brought, in the first place?

MR. WELLS. It is quite possible that it would have, sir, because even prior to the Taft-Hartley Act there were cases where a Board attorney would take a position which the Board hearing the case would not take.

As you know, under the Wagner Act, the regional directors had the authority to issue complaints, often without submitting the case to the court. I presume that is the reason why the Board was frequently reversing the position taken by the regional attorney.

Senator MORSE. I understand that, and it is a very accurate statement, except, I think, it overlooks the fact that where you do not have this division, then you have the Board itself laying down a policy which prevents the possibility of such an occurrence. I submit the practice shows it is a reality, that the possibility of the general counsel's proceeding along one line of theory and the Board holding another line of theory would not occur if the power were joined. The case would not have been brought in the first place.

MR. WELLS. I assume that if the matter had been brought to the Board in the first place, that it would not have entertained that.

Senator MORSE. I have a last question, Mr. Chairman.

Mr. Denham, the cases——

Mr. DENHAM. May I add just a word to what Mr. Wells has said.

Senator MORSE. I thought that was a satisfactory answer for you, but if you want to add to it, I will be very glad to take your statement.

Mr. DENHAM. Another point, Senator, in connection with this particular field of inquiry: The Perry Norvell case was one of the very earliest cases brought under the Taft-Hartley Act, one of the very earliest cases tried.

We were in completely new territory. Now, running into a marginal question, it has been my policy to put the matter in such shape that it gets to the Board for a decision in order that we can get the law made on the subject.

Senator MORSE. That is pretty hard on the parties, as to whether you conduct that sort of experimentation.

Mr. DENHAM. Where it is a marginal case, and it can be one way or the other, I do not feel that the general counsel is entitled to kick it out. He is not sitting, I do not think he is entitled to sit as a judge to that extent.

Senator MORSE. You see what I am interested in, as a member of this committee, and that is having a law that is not going to harass the citizens of this country with a lot of legal contests that may develop between general counsel's office and the Board, resulting in what subsequently proves to be unnecessary litigation because of a completely different point of view between general counsel's office and that of the Board. We are dealing here with a subject matter of human relations that requires the greatest of speed in the determination of the issues, and we are not dealing with a subject matter that permits us to tolerate the type of delay which, at best, seems to characterize the National Labor Relations Board and has been made worse, it seems to me, by this division of authority.

Mr. DENHAM. The record does not prove that. The record shows quite to the contrary.

Senator MORSE. Well, I would like to raise the point, Mr. Denham, before you, of the large numbers of employers and unions that can be paraded here showing the effects of such delays as exist in National Labor Relations Board cases upon harmonious labor relations in this country.

Mr. DENHAM. The delays under the Taft-Hartley Act have been very substantially less, the time lag has been substantially less than it ever was under the Wagner Act, if that means anything.

Senator MORSE. No; it does not mean a thing. That is just the point. It just does not mean a thing, because it is another quantitative approach to a problem which is basically qualitative. What we have to find out is whether or not they are being dragged in on things that they should not be dragged in on at all, whether the operator of a barber shop, a hotel, or a laundry is being dragged into litigation on complaints filed by the general counsel when that complaint does not follow a policy which, if it were submitted to three out of five members of a board, or two out of three members of the old board, never would have been filed in the first place.

Mr. DENHAM. The purpose of Congress would not be served if the Board was going to determine what the complaints should compose.

Senator MORSE. Well, we certainly differ on that, Mr. Denham. That is exactly where I am going to put the power in my bill.

Mr. DENHAM. I am just reading the provisions of the act itself.

Senator MORSE. I am objecting to the provisions of the act, trying to get some facts on which to change them. They are legion.

My last question, Mr. Denham, is this: The cases, as I see them, show that you believe that a secondary-boycott situation may be one in which even picketing is not protected. I think you so testified the other night, in that you characterized picketing under some of these secondary-boycott cases as a verbal act, words carrying a coercive implication. Is that correct?

Mr. DENHAM. That is correct; yes, sir.

Senator MORSE. Is it your opinion then that picketing even in connection with a primary strike would be coercion and hence an unfair labor practice?

Mr. DENHAM. Picketing in a primary strike is technically, under the law—

Senator MORSE. But as far as the act is concerned?

Mr. DENHAM. The secondary-boycott feature is the encouragement and inducement of employees of another employer to do certain things.

Senator MORSE. I am talking about the act of picketing. The physical act of picketing in one case is the same as in the other.

Mr. DENHAM. In most cases, yes.

Senator MORSE. In the absence of violence, physical force, but I mean the peaceful picketing is as much a verbal act in one case as in another when they use persuasion.

Mr. DENHAM. That might be true, but primarily picketing and primary strike is—

Senator MORSE. Your distinction then as to the act of picketing is only the distinction that in your opinion the law protects that act in primary strikes. That is your distinction. The physical act is the same.

Mr. DENHAM. Well, I can see secondary strikes, secondary operations in which there would be nothing objectionable about picketing. We have several in which picketing is against—

Senator MORSE. In secondary boycotts?

Mr. DENHAM. Yes, sir; some cases came to us as secondary boycotts. The picketing was against a product and not against an employer.

Senator MORSE. You hold some secondary boycott cases, then, where the act of picketing is a verbal one or involves words, carrying coercion by implication—to cut it down even finer, in those cases where you find that they are picketing against products, and even though the physical act is the same, nevertheless you do not proceed against them in that case. What is the distinction there?

Mr. DENHAM. Well, we have very few of those. One that I have in mind particularly is a dairy up in northern New Jersey in which the teamsters, I think it was, had a dispute with the dairy and they picketed the primary employer, and then some of the teamsters on some of the docks where the milk was being delivered to other spots refused to handle, and those employers were told to go ahead and handle it anyway, and then the next thing we knew pickets had made their appearance in front of the store which handled this product, and the signs which they carried roughly recited "X Y Z milk is

being sold in here. The X Y Z Dairy is unfair to organized labor. Please do not buy X Y Z milk in here."

Now, there was no objection to the teamsters delivering the X. Y. Z. milk into that store. There was no penalty in their crossing the picket line. The picket line was open for anyone to go through without any question being raised by them.

Now, that is picketing a product.

Senator MORSE. You do not consider that is a verbal act that has coercive implications?

Mr. DENHAM. No. We, as a matter of fact, dismissed that.

Senator MORSE. The physical act of picketing in the secondary boycott for organizational purposes, and the secondary boycott against the product is all the same.

Mr. DENHAM. The physical aspect is pretty much the same. The signs they carry may be different.

We have another famous well-known case of picketing against a product out in Seattle where a certain person whose juke boxes or remote control music affairs in bars and taverns got into a quarrel with the labor organization, and the labor organization had their sandwich man—I think someone talked about sandwich men, and that is what I had in mind—walking up and down the streets of Seattle, "Do not patronize the juke boxes operated by" whatever the concern was in the taverns in this town. That is picketing a product.

Senator MORSE. All those cases, Mr. Denham, resolve themselves down, as far as your office is concerned, into whether this particular type of picketing constitutes, to use your language, a verbal act which is coercive in its implications.

Mr. DENHAM. Yes, sir.

Senator TAFT. Against employees or employers?

Mr. DENHAM. Against other employers.

Senator MORSE. That is all I need. I am through with the witness.

Senator PEPPER. Mr. Denham, I believe you stated that where you elected not to seek an injunction under the authority of the Taft-Hartley law, there was no power in the board or any other agency or court, I think it might be added, to review your decision not to enter there—

Mr. DENHAM. Do you mean when I elected not to seek an injunction?

Senator PEPPER. That is right.

Mr. DENHAM. I have not said anything about that. There is a statutory mandate that we proceed.

Senator PEPPER. In certain cases.

Mr. DENHAM. In certain cases.

Senator PEPPER. The only statutory mandate is that you proceed in cases against the employee.

Mr. DENHAM. Yes, sir; against labor organizations. That is under section 8 (b) (4).

Senator PEPPER. That is right.

Is there any statutory mandate in the law, in any case, that you proceed against the employer?

Mr. DENHAM. None; no mandate of any sort. There is discretionary power given, and that is all.

Senator TAFT. When you say "mandate," let us correct one thing: Only if you find the facts to exist which you consider a violation and unfair labor practice.

Mr. DENHAM. Oh, quite right; it is predicated upon that.

Senator TAFT. Not just because somebody applies to you for anything or asks for anything.

Mr. DENHAM. No; we would have been in court every time.

Senator PEPPER. Only in case you find those facts to exist, nobody else acting in concert with you and making such findings?

Mr. DENHAM. When you say "you," you are talking about my office?

Senator PEPPER. I mean your office, for which you, of course, are responsible.

Mr. DENHAM. That is correct.

Senator PEPPER. Now, let us suppose the general counsel initiates proceedings for injunctions. There is nobody who can stop him from initiating those proceedings, is there?

Mr. DENHAM. You are now referring to——

Senator PEPPER. Any power.

Mr. DENHAM. Only the court might find they are not well grounded.

Senator PEPPER. We are governed here in our time, Mr. Denham. What I am getting at is, nobody can stop you from initiating an injunction that you may be authorized to initiate under the law.

Mr. DENHAM. I think that is correct.

Senator PEPPER. No, then, Mr. Denham, I believe you supplied us here February 1 with some data showing the number of injunctions instituted by your office and the number granted, and so on. We have those before us.

Mr. DENHAM. I think I just read them into the record, Senator.

Senator PEPPER. We all have the full list here. Oh, I beg your pardon.

Mr. DENHAM. I should be very glad to furnish them.

Senator PEPPER. Let us see if this is correct. I have one here that shows injunctions, numbers instituted, granted, denied. It says under 10 (j): "Proceedings (1) against unions, 4; against employers, 2." Is that correct?

Mr. DENHAM. That is right.

Senator PEPPER. Granted against unions, 2; against employers, none; denied against unions, none; and against employers, 1. Now, is that correct?

Mr. DENHAM. That is correct; yes.

Senator PEPPER. So, I find down in the next category, (b) under 10 (1): Proceedings (1) involving 8 (b) (4) (a), 27 injunctions were instituted by your office.

Mr. DENHAM. Under the provisions 8 (b) (4) (A); yes, sir.

Senator PEPPER. Is (A) the secondary boycott?

Mr. DENHAM. Yes, (A) is the secondary boycott. It is fundamental to the secondary boycott.

Senator PEPPER. And 15 of those were granted?

Mr. DENHAM. That is right.

Senator PEPPER. Five denied and seven disposed of other ways. Now, involving 8 (b) (4) (A) and (B), there were six instituted, two granted, one denied, three disposed of otherwise. Is that correct?

Mr. DENHAM. That is right.

Senator PEPPER. Under 8 (b) (4) (C), there were two instituted, two granted. Is that correct?

Mr. DENHAM. That is right.

Senator PEPPER. Under 8 (b) (4) (C) and (D) there was one instituted and one is still pending?

Mr. DENHAM. That is correct.

Senator PEPPER. Now, then, under 10 (j), there were temporary restraining orders ex parte; one sought and one denied. Is that correct?

Mr. DENHAM. That is right.

Senator PEPPER. And its temporary restraining orders under 10 (j) were sought on notice, one; and one was granted, is that correct?

Mr. DENHAM. Right.

Senator PEPPER. Under 10 (l), temporary restraining orders, injunctions were sought ex parte in two cases and granted in two cases.

Mr. DENHAM. Temporary restraining order.

Senator PEPPER. And on notice, one was sought and one was granted. Correct?

If I add up correctly the number, the total number, of injunctions and restraining orders sought, it comes to 47.

Mr. DENHAM. The total number of injunctions includes the restraining orders.

Senator PEPPER. Do they?

Mr. DENHAM. Yes, sir.

Senator PEPPER. Well, from the 47 we will take 5. That leaves 42. There were 42 injunctions sought by your office, according to those figures.

Mr. DENHAM. Yes, sir.

Senator PEPPER. Now, how many of those were sought against unions and how many against employers?

Mr. DENHAM. Thirty-six were sought against unions under the mandatory provisions of 8 (b) (4).

Senator PEPPER. Forty-two against unions and six against employers.

Mr. DENHAM. Wait a minute. No; I beg your pardon. Forty of them were sought against labor organizations. Of the 40, 36 were under the mandatory provisions and 4 were instituted under the discretionary provisions of 10 (j).

Senator PEPPER. So 40 out of the 42 injunctions sought by your office were against labor unions and not against employers?

Mr. DENHAM. That is right.

Senator PEPPER. Now I am not charging, Mr. Denham, that this is true in this case, or that these facts prove it, but I am asking you with respect to a power that exists under this act, whether or not with the broad power that is conferred upon the general counsel under this act, there is not the power, if it were to be used by a general counsel, to make the office of the general counsel the instrument by which employers could, for most practical purposes, go back to the days of using injunctions which were forbidden by the Norris-LaGuardia Act and possess injunctive power with respect to their employees.

Mr. DENHAM. I do not think there is any question about that. Senator, except that the fellow who did it would very quickly find the President's hands on his collar jerking him back out of his job.

Senator PEPPER. But you were very candid in your answer that the power does exist.

Mr. DENHAM. There is no question about it being there.

Senator PEPPER. And it exists in one man. You are the top responsible man in that case.

Mr. DENHAM. That is right. Similar power exists, of course, in one or two other cases. That has been mentioned.

Senator PEPPER. Similar power exists——

Mr. DENHAM. For instance, in the control of the currency, the man who controls the destiny of national banks. He has just about the same power, only more so. He does not even have to go to the courts.

Senator PEPPER. He does not have power to issue injunctions against people respecting their work.

Mr. DENHAM. He just goes into the bank and says, "Here is a receiver."

Senator PEPPER. Very well, we will let that analogy stand in the record, but no other one is granted such power as the general counsel.

Mr. DENHAM. The Administrator does not have the injunctive power. There is no other agency I know of that has authority to seek injunctions.

Senator PEPPER. Now, the 47 injunctions that were applied for were principally related to that secondary boycott and what may be called the economic secondary boycott.

Mr. DENHAM. Forty-two, you mean.

Senator PEPPER. No; I am talking about the 47. Those are primarily the economic secondary boycotts.

Mr. DENHAM. There are all economic in a way.

Senator PEPPER. In those ends the objective of the ground can be fairly said at least in their view to be aimed at bettering their economic condition.

Mr. DENHAM. I do not think you can say that, no. I do not believe you can draw that inference.

Senator PEPPER. Well, that is what the general purpose and objective of an economic boycott is, is it not? These people think that by putting pressure to help other employees similarly situated, that it will redound to their own benefit.

Mr. DENHAM. They are trying to exert economic pressure.

Senator PEPPER. Exactly.

Mr. DENHAM. From the side, in order to compel their own employer, the direct person, to concede to their demands. Now then, that, I think, is the best way to put it, Senator.

Senator PEPPER. Well, all right, I will let it be put your way, but it was aimed at their own economic betterment. The method that they attempted to use was forbidden by the Taft-Hartley Act.

Mr. DENHAM. That is right.

Senator PEPPER. But at least they were striving in this way to better themselves economically and to use their economic power. That is correct, is it not?

Mr. DENHAM. Well, of course, I do not use the term "economic betterment." It is for the purpose of enforcing their economic demands.

Senator PEPPER. You were asked about picketing a while ago. Is there anything in the Taft-Hartley law that expressly permits and defines picketing that may be carried on even in a primary strike?

Mr. DENHAM. I do not recall that there is anything expressly referring to it. It is a part of the procedure of publicly announcing the dispute.

Senator PEPPER. Is there any provision in the act that expressly says they have a right to picket?

Mr. DENHAM. I think you read it into section 9 (1).

Senator PEPPER. That is the section over there on—

Mr. DENHAM. On free speech.

Senator PEPPER. On free speech, notwithstanding the legislative history of that section to which we adverted in the committee report. Is there any power in your office to bring an action to restrain what you might consider unlawful picketing?

Mr. DENHAM. Where the picketing, by virtue of some of the circumstances surrounding it, contains a threat, as some picketing does.

Senator PEPPER. So it is left entirely to the discretion of the general counsel even as to whether he will initiate an action against what he calls, without any definition of the subject being in the law, unlawful picketing.

Mr. DENHAM. And when I say "unlawful picketing," Senator, I am not talking about picketing in a primary dispute. I am talking about picketing in a secondary dispute.

Senator PEPPER. I ask you whether in respect to a primary strike there is anything in the law that gives the express authority for the employees to picket their employer against whom they are striking.

Mr. DENHAM. I think it is inherent in the existence of the dispute.

Senator PEPPER. It seems that the law has been pretty careful to define the right of the employer and to define the duties of employees in so many cases. I was just wondering whether they were given any right to picket in the law, and I believe you said there is no such provision in the law.

Mr. DENHAM. In that language, no, but in 10 (c) you read it into it.

Senator PEPPER. Now my next question is: Do you possess any power, in your opinion, under the law to institute action against what you might regard as unlawful picketing in a primary strike?

Mr. DENHAM. You mean where there is mass picketing and violence and things of that sort?

Senator PEPPER. Whatever you may regard as unlawful picketing.

Mr. DENHAM. I would have to look back over some of the cases. We have had that in the Sunset Line and Twine cases.

Senator PEPPER. Did you institute action?

Mr. DENHAM. We instituted action there. The trial examiner found that there was no violation and the Board very vehemently, very positively reversed him.

Senator PEPPER. Under what provision of the law did you initiate that action?

Mr. DENHAM. Section 8 (b) (1) (A).

Senator PEPPER. What does that provide?

Mr. DENHAM. Coercion.

Senator PEPPER. To prevent coercion; so, although the definite right to picket is not expressly conferred under the law, nevertheless, if you regard as unlawful, as coercion, in your opinion picketing which

may actually occur, you have under the coercion section of the statute authority, in your opinion, to ask for an injunction in the district court against such alleged unlawful picketing?

Mr. DENHAM. Under section 10 (j) you are speaking of?

Senator PEPPER. Yes.

Mr. DENHAM. I think the right exists. We have never entertained any thought of exercising it, however.

Senator PEPPER. In the Rand Construction Co. case you did seek to enjoin peaceful picketing, that is, in an alleged secondary boycott case?

Mr. DENHAM. That is right.

Senator PEPPER. Well, now, Mr. Denham, in this bill the law forbade the closed shop which already existed in respect to many thousands of workers in this country and over a period, I believe, of some 50 years, it was testified, was it not?

Mr. DENHAM. Well, I do not know whether I testified on that. The law abolished the closed shop. There is no question about that.

Senator PEPPER. Did the law not make also more difficult the attainment of the union shop?

Mr. DENHAM. By requiring the union-shop election; yes, sir.

Senator PEPPER. It slowed up by the processes you had to go through to get it.

Mr. DENHAM. I might say we got to a point where we were pulling off those union-shop elections awfully fast.

Senator PEPPER. The fact that the elections had to be held caused some employers, one of whom is scheduled to come here and testify before us—it was just impracticable to hold these elections, but nevertheless the Taft-Hartley law did establish a procedural requirement that took a longer time to get a union shop than previously was required, and it required you to go through elections and processes and procedures never before required; did it not?

Mr. DENHAM. Well, may I put that in my own words? The Taft-Hartley Act required an additional step before they could even bargain about a closed shop or a union shop.

Senator PEPPER. That is right. Did it not require two steps? As I understand it, there had to be a collective-bargaining agent that was selected in a representation election, and the next question was that, if they attempted to enter into an agreement with respect to a union shop with the employer even through their chosen representative, there had to be a subsequent election.

Mr. DENHAM. That is right.

Senator PEPPER. Now in that election not a majority of those present and voting, as in the Senate and the House of Representatives and as in the elections held throughout the United States, but a majority of those eligible to vote had to vote in order to authorize the union shop.

Mr. DENHAM. That is a statutory requirement.

Senator PEPPER. So that made, in respect to the previous conditions, even the union shop take longer to get, require more procedural measures to be taken to get it, and imposed burdens upon getting it which never before existed under the Wagner Act.

Mr. DENHAM. That is right.

Senator PEPPER. Well, now, is it not fair to say, therefore, that just those two provisions alone delayed the effectiveness and retarded the effectiveness of the union as the spokesman for the employees?

Mr. DENHAM. It is hard to answer that question because, Senator, I have for the last 6, 7, 8 or 9 months felt that the union-shop elections should be dispensed with. I have no more love for it than you have.

Senator PEPPER. So you feel that experience has shown that those provisions of the Taft-Hartley law are burdensome and they should be eliminated?

Mr. DENHAM. I think so; yes.

Senator TAFT. The joint committee so recommended some months ago.

Senator PEPPER. Now, then, what I am getting at is this: It was brought out so well here the other day by Senator Humphrey that it is the history of the union movement of this country that the unions more than any other force have raised the working conditions of the employees of this country.

In other words, they have served a very useful social purpose in giving more bargaining strength to the employees and thereby bettering the economic conditions of the workers of this country. That is in your social history, is it not?

Senator PEPPER. Is it not logically the conclusion you have to come to that anything which so effectively impairs the ability of the union to speak for the workers therefore mitigates against the very accomplishments which the unions have achieved in the industrial life of this country?

Mr. DENHAM. In this particular instance I do not think that is such a terrific imposition on the unions, Senator.

Senator PEPPER. Has unionism increased very rapidly in the South, for example, where there is so much need for unionization, under the Taft-Hartley law?

Mr. DENHAM. I do not have figures on it. There has been a very definite increase in the amount of organizational activity there.

Senator PEPPER. But would you be willing to state, Mr. Denham, that you think there is still the same opportunity, the same free and untrammelled opportunities for the organization of workers into unions under the Taft-Hartley law which existed prior to the Taft-Hartley law under the Wagner Act?

Mr. DENHAM. I think that the Taft-Hartley Act has made the labor union an organization of higher standing in the social structure than it ever occupied before, and that the Taft-Hartley Act is a contribution to sound—and I say “sound” advisedly—labor organizational opportunities and labor relations than anything else that has ever been put on our books.

Senator PEPPER. If time remains later and Mr. Denham is still here, there are some other questions I want to ask him.

Senator TAFT. Mr. Denham, I have only one or two questions. Is it not quite possible that this union-shop election was rather helpful for unions? Did it not make it more difficult for an employer to refuse to grant a union shop after the election?

Mr. DENHAM. I have heard many employers raise that criticism about the union-shop election. The union always won it and then the union would come into the boss and say, “Now here, your people want

a union-shop election; let us have it," and he did not have very much to argue about.

Senator TAFT. Senator Pepper tried to liken these injunctions against secondary boycotts to the conditions before the Norris-LaGuardia Act, and to a certain extent you agreed. Were not there two very fundamental differences, the so-called injunction law period prior to the Norris-LaGuardia Act which was initiated on the application of the employer himself?

Mr. DENHAM. The Government had nothing to do with the application of injunctions prior to the Norris-LaGuardia Act. Because of that, the injunction fell into such terrific disrepute.

Senator TAFT. In this case the Government agency has to pass on the merits before any injunction is brought, and they bring it. In the second place, were not injunctions nearly always direct injunctions by the employer against his employees? Was not that the model type of injunction at that time, so to speak?

Mr. DENHAM. I do not know.

Senator TAFT. The typical type of injunction, I mean.

Mr. DENHAM. I am not familiar with the injunction era of labor relations prior to the Norris-LaGuardia Act, Senator.

Senator TAFT. The power that you have, Mr. Denham, to file complaints and so forth is the same kind of power that every district attorney in the United States has, is it not, practically?

Mr. DENHAM. I understand it to be that.

Senator TAFT. Where you find an unlawful act you have the discretion to file a complaint and the court finally passes on it, is not that correct?

Mr. DENHAM. The duties to prosecute any unlawful act that is brought to our attention.

Senator TAFT. And the district attorneys, hundreds of them throughout the United States have exactly that same power which involves perhaps an injustice to the people that they may prosecute.

Mr. DENHAM. Sometimes that is very true. There have been many acquittals in the court.

Senator TAFT. Sometimes they present cases to the grand jury. In many cases they have the right individually to make decisions, do they not?

Mr. DENHAM. Yes, sir.

Senator TAFT. These so-called secondary boycotts for economic benefit, how would you classify the secondary boycott where it seems the union comes to an employer and says: "We want your men to join the teamsters' union whether they want to or not. You have got to force them into the teamsters' union." Would you characterize that as a strike for the economic benefit of the teamsters' union except perhaps as far as getting more dues is concerned?

Mr. DENHAM. I have made the statement many, many times that one of the big criticisms I have had to make of the movement of organized labor is in so many of the cases, so many more than should be, organized labor seems to regard the employees as existing for its benefit, whereas actually organized labor should exist for the benefit of the employee.

Senator TAFT. My point is the secondary boycotts are brought for all sorts of purposes, for economic benefit, for increase in power—

Mr. DENHAM. Attempts to force the other fellow to organize.

Senator TAFT. All kinds of different purposes.

Mr. DENHAM. Yes, sir.

Senator TAFT. And they require study and classification more definitely than we have in the present laws, do you not think so?

Mr. DENHAM. Yes, sir. I said, I think on the first day when you were questioning, Senator Taft, it would be just too doggone bad if they took away the threshold injunction power of the Board whether it rests in the general counsel, in the Board, or what not. The power to apply for a restraining order on the threshold of some of these cases is absolutely essential if you are going to prevent irreparable damages.

Now labor unions do not all wear rings, halos, and they very frequently do things which are quite unpardonable, which, if allowed to continue, will result in the destruction of industry.

Senator MORSE. One question, Mr. Chairman. Mr. Denham, in reference to the powers of the district attorneys in the United States, taking into account their limited civil jurisdiction, their primary duty is to carry out the enforcement of the criminal laws of the country; is that not true?

Mr. DENHAM. That is right.

Senator MORSE. And they function under the police powers of the State, do they not?

Mr. DENHAM. Yes, sir.

Senator MORSE. And when they seek an indictment in a grand-jury State, their recommendations have to be passed upon by the grand jury.

Mr. DENHAM. And supported.

Senator MORSE. In those States where the information rather than a grand-jury system exists, the accused person is entitled in a matter of hours to a hearing upon the indictment, is he not?

Mr. DENHAM. On the information. He is theoretically entitled. He does not always get it within a matter of hours.

Senator MORSE. If he does not get it, the person that does not give it to him——

Mr. DENHAM. There has to be enough time elapsed. I can hardly conceive of a complaint coming in and information being issued without an investigation on the part of the prosecutor as to the merits of the complaint so that he knows whether he is justified in issuing the information. Then after he issues information, there is as prompt a hearing as the docket will permit.

The same thing is true here. Now the regional office has no control over the filing of charges. A charge comes in, it is investigated, all sides are investigated, both the person charging, the supporting evidence is investigated, the person against whom the charge is brought is given every opportunity to present all the facts so they can determine whether the case should be proceeded with or not.

Then when a complaint is issued the usual number of days, not less than 10 days and if possible 15 or 20 days are allowed to elapse for the setting of the hearing.

The procedure is very much the same.

Senator MORSE. You mean, Mr. Denham, you are testifying that under the Taft-Hartley law the action taken by the general counsel is as expeditious a handling of the case as a citizen gets in courts of this country when charges are brought against him by the district attorney?

Mr. DENHAM. I do not know. I cannot say. I know we give them as expeditious treatment as we can.

Senator MORSE. A matter of a few days under your procedure.

Mr. DENHAM. It is much more than a few days because of the development of the facts in these cases.

Senator MORSE. Is it not true it becomes a matter of months before the case is finally litigated before the National Labor Relations Board in a great many instances?

Mr. DENHAM. There is in evidence, Senator, a memorandum of the elapsed time between the filing of a charge, the issuance of a complaint, the close of a hearing, and the issuing of an intermediate report, and the issuance of the intermediate report and the Board's decision. It runs from the filing of the charge to the issuing of the Board's decision sometimes into a matter of almost 2 years.

Senator MORSE. That is all I wanted to ask.

Senator MURRAY. Is there any further examination?

Senator NEELY. Yes, I wish to examine the witness.

(Discussion off the record.)

Senator NEELY. Mr. Denham, when did you first enter the Government service?

Mr. DENHAM. In 1917 I joined the Army.

Senator NEELY. You did what?

Mr. DENHAM. I enlisted in the Army in 1917.

Senator NEELY. I mean in your civil capacity. I do not want your war record.

Mr. DENHAM. I do not want to get my war record in as such either.

I did not get a chance to go overseas. I had to chop down trees out in the Northwest, but after the war was over I was brought to Washington and after I had served here as a member of the Air Service Claims Board for some 8 or 9 months in a military capacity, I was discharged and then entered on my first civilian employment with the Government in December of 1919, I think it was.

Senator NEELY. What was the nature of that service?

Mr. DENHAM. I beg your pardon.

Senator NEELY. What was the nature of that service?

Mr. DENHAM. I beg your pardon.

Senator NEELY. What was the nature of that service?

Mr. DENHAM. As a member of the Air Force Claims Board in the first instance and then in charge of all the field operations in order to get the matter cleaned up in a hurry with my office in New York City.

Senator NEELY. Were you in the service of the Government continuously from 1919 until you became an examiner for the Board?

Mr. DENHAM. No, sir, I finished that work up when we got through with the Air Service Board and I went to work for a bank in New York and I did not come back into the service of the Government until around, I think it was the early part of April of 1933, when I received a telegram from the Comptroller of the Currency asking me to come down here and I was advised that I was the special counsel to the Comptroller, counsel for the reopening of closed national banks.

I stayed in that capacity for 1 year. That job was finished up when I left and I was asked if I would take some cases for the Board in March 1938. I did so and I have been with the Board ever since.

Senator NEELY. When did you first become an employee of the Government with relation to the Labor Board?

Mr. DENHAM. In March 1938.

Senator NEELY. Were you an applicant for that place or was it offered to you?

Mr. DENHAM. No, sir, I was asked if I would take some temporary work as a per diem trial examiner. They needed all the men they could get.

Senator NEELY. Was the Wagner Act in effect at that time?

Mr. DENHAM. Yes.

Senator NEELY. Were you familiar with it?

Mr. DENHAM. Well, I very quickly became familiar with it, Senator Neely. I had never read it up until the time I was asked to come down to the Board's office.

Senator NEELY. When you first became familiar with it, were you in favor of it or opposed to it?

Mr. DENHAM. I took the act as I found it, and my job was to sit as a trial examiner and I applied it from a judicial standpoint, sir. It was not a question of being opposed to it. It was simply a law that I was expected to administer from the judicial point of view and I did it. As I became more acquainted with the circumstances, I felt that the Wagner Act was at the time one of the most needed pieces of legislation that the country had.

Senator NEELY. One of the most what?

Mr. DENHAM. One of the most needed pieces of legislation that the country had.

Senator NEELY. Were you in sympathy with the law at that time?

Mr. DENHAM. I think that statement indicates that I was.

Senator NEELY. Well, when did you first notice that you were losing your sympathy for it and when did you first reach the conclusion that something like the Taft-Hartley law should be substituted for it?

Mr. DENHAM. It did not take me very long after becoming a staff trial examiner, which was in August, I think, of 1938, and we worked along there. Everybody was going full speed ahead. Eventually I got a little better acquainted with the manner in which the act was being administered, and I became very impatient with many of the decisions that were handed down.

Senator NEELY. About when did you reach that point?

Mr. DENHAM. That was around 1939, I should say, but I still, in spite of my feeling that I was not in sympathy with the philosophy of some of those who were administering the act, I still believed the act itself inherently was good, and I attempted to administer it along those lines, sir.

Senator NEELY. Did you inform the Board or the President, who had appointed you, that you had lost your sympathy or friendly feeling for those who were administering the law?

Mr. DENHAM. No; in that specific manner, no, but no one who was on the Board doubts what I thought about the administration of the act.

Senator NEELY. And when did you first decide to make suggestions as to what the Taft-Hartley law or the substitute for the Wagner Act should contain? Was it after Senator Donnell talked to you about the matter, or had you reached your conclusion before that time?

Mr. DENHAM. Oh, George Pratt, the chief trial examiner who was the chief trial examiner when I went with the Board, and who re-

mained such until the early part of 1942, and I had many discussions about possible changes in the act, in its application, where it could be strengthened or weakened.

George was not a person who was in sympathy or whose sympathies were such that I would say he would endorse wholeheartedly the Taft-Hartley Act, but he recognized that there were places in the Wagner Act that had some pretty good-sized holes in them and some pretty sour spots in them. I could not name them now because that was a matter of just general conversation in his office, discussing them, but the chief thing that I was concerned about was the administration of the law, not the act itself as much as the manner in which it was being handled.

The functions and operations of the trial examiners were one of my great concerns because I was a trial examiner. I had a great deal of respect for the job of trial examiner, and still have. I think it is one of the most important jobs the Government has outside of the judiciary.

Senator NEELY. Do you think that it is more important than the one you now have as general counsel?

Mr. DENHAM. This is a special job. The trial examiner is a class. Consequently I was constantly looking forward to some way in which we could make the business of the trial examiner one which would be elevated to higher levels and would just per se command the respect of every one who came before the hearings.

Those were the things that I was devoting myself to much more than anything else, although when it came to a discussion of the act, I presume I did not give much serious thought to it until 1946 sometime.

Senator NEELY. After the election in 1946, of the Republican Congress?

Mr. DENHAM. I did not have any conversion, Senator. It is one of those things—I must again go back to Senator Morse's expression—this was a transposition by accretion more than anything else.

Senator NEELY. I do not think you will make many errors when you quote Senator Morse regarding the Taft-Hartley law.

Mr. DENHAM. That is a paraphrasing of one of his statements.

Senator NEELY. What proportion of your work as a trial examiner was under or in connection with the Wagner Act?

Mr. DENHAM. All of it.

Senator NEELY. You had no other duties to perform?

Mr. DENHAM. No, none at all.

Senator NEELY. Do you think that one who had reached the conclusion that a law was not right and that it ought to be stricken from the statute books could, without bias, enforce that law?

Mr. DENHAM. You have never had a biased partisan in this man Denham so far as handling the law is concerned and doing his job under it, sir.

I know how to carry my job on without bias, and I have no occasion to have any bias. I would suggest, sir, if you have not already done so, that you read carefully the memorandum that I wrote to Senator Donnell on the subject of the changes in this law.

Senator NEELY. I should like to have a copy of it.

Senator DONNELL. It is in the record. I put it in in full a good many days ago.

Senator NEELY. There are a good many exhibits in the record I have not been able to read.

Mr. DENHAM. I think that would reflect to a very large extent, Senator, my approach to the changes in this law.

Senator NEELY. In determining the matter of bias, you, as a lawyer, know that the jury and not the witness usually renders the verdict.

Mr. DENHAM. I beg your pardon.

Senator NEELY. The question of bias should be decided by someone other than he who is thought to be afflicted with it.

Mr. DENHAM. Quite true.

Senator NEELY. Do you think that a biased man is competent to decide whether he is biased?

Mr. DENHAM. I guess not.

Senator NEELY. I believe that is a correct answer for everybody.

Mr. DENHAM. Of course, it goes the other way as to whether a biased person can adjudicate the bias of another.

Senator NEELY. When you were appointed general counsel, I believe you have stated that so far as you know no Member of Congress recommended you.

Mr. DENHAM. So far as I know, Senator, no Member of Congress recommended me. I was not an applicant for the job. I was approached by one of the members of the Board, and asked whether I would permit him to suggest that I be designated for this job.

I was subsequently told that my name was presented to the President with the unanimous request of the three members of the Board that I be appointed to that job. I protested against it. I did not want it.

Senator NEELY. Would you mind telling us which member of the Board approached you and inquired whether you would accept the place?

Mr. DENHAM. James Reynolds.

Senator NEELY. When did you first begin to assemble the voluminous data that you submitted here the other day showing what purported to be similarity between the laws of 46 States of the Union and the Taft-Hartley Act?

Mr. DENHAM. About a month ago, I would say.

Senator NEELY. About how long ago?

Mr. DENHAM. About a month ago.

Senator NEELY. Sometime in January?

Mr. DENHAM. I do not recall exactly.

Senator NEELY. How long did it take to collect that data?

Mr. DENHAM. Well, I had four or five men on it. They put in 3 or 4 days on it, possibly a week.

Senator NEELY. What was the purpose for which you rendered this service?

Mr. DENHAM. To have it here in order to be able to refer to it with reference to that portion of the proposed law which overrides all of the States' rights to police their own union activities within their own borders, so far as union security is concerned.

I happen to have vested in me by virtue of the delegation of authority all of the matters that go to the question of cession of jurisdiction, although the Board, of course, would have to join in any agreement which would cede jurisdiction under the provisions of section 14 (b), I think it is.

Senator NEELY. Did you collect that data on your own motion or on the suggestion or request of someone else?

Mr. DENHAM. On my own motion.

Senator NEELY. How did it happen that you never moved in this matter until after the initiation of proceedings to repeal the Taft-Hartley Act?

Mr. DENHAM. I was asked by one of the Members of this Congress, sir, if I could give him a parallel between the laws of his State and the Taft-Hartley Act. He said, "I do not know what that picture is." I did it. That gave me an idea.

Senator NEELY. When were you asked to do that?

Mr. DENHAM. Around about sometime in January. I have forgotten when.

Senator NEELY. About the time this committee began to work on the Taft-Hartley Act?

Mr. DENHAM. It might be. It was since the first of the year, Senator. I do not know the date of it.

Senator NEELY. Mr. Denham, I ask you the simple question: Did you make this preparation for the purpose of helping to defend and perpetuate the Taft-Hartley Act?

Mr. DENHAM. I believe in the Taft-Hartley Act, Senator.

Senator NEELY. You have made that abundantly clear, Mr. Denham.

Mr. DENHAM. I wanted to have available here material which would permit me to answer questions on any of these subjects.

Now, I take it that the Senator is a lawyer and that he has been in many legal battles. I take it that in going into those court battles he has prepared voluminous material to use so that he can meet any point that is raised.

That is the way I try a lawsuit and I assume that that is the way other good lawyers do, and so it has been that I have a whole suitcase full of material here; yes.

Senator NEELY. Are you going to file that?

Mr. DENHAM. No, sir; I am not going to file any of it unless it is asked for.

Senator NEELY. Is there anything that you could say in behalf of the Taft-Hartley law or any documentary evidence you can produce in behalf of it that has not been inserted in the record? I hope that you will be unrestrained, because I should like to know how much work you have done at the expense of the Government trying to fortify the Taft-Hartley law. You say that you wanted to be prepared for this case?

Mr. DENHAM. Yes, sir.

Senator NEELY. When did you first know that you were to be the star witness for the Taft-Hartley side of this case?

Mr. DENHAM. I did not know that I was going to be the star witness at all until very recently.

Senator NEELY. You know it now, of course?

Mr. DENHAM. But I assumed that the committee, whether one side or the other side, the committee as a whole would have some interest in hearing from the man who has had perhaps more to do with the application of this law than anybody else. I just assumed that.

Senator NEELY. You did not expect to be called by this side of the table, did you?

Senator TAFT. Why not?

Mr. DENHAM. Exactly; why not?

Senator NEELY. I think the witness' testimony will abundantly answer that question.

Mr. DENHAM. I have not been consulted by anybody and I had not been consulted by anybody until I was advised by the representative of the subcommittee here on the Wednesday before my testimony began that I would be expected to be on hand the next day at 3 o'clock, and this was 7 o'clock in the evening. I was just getting dressed to go out to dinner.

Senator NEELY. But notwithstanding that you had not been summoned or notified by anybody that you were going to be called here, you took the trouble to collect three of four hundred pages of data?

Mr. DENHAM. Correct.

Senator DONNELL. Would the Senator permit?

Senator NEELY. When I get through I shall be glad to yield.

You prepared yourself for testimony that you were going to give before a committee, without having any intimation from anybody that you were even going to be called as a witness; is that a fact?

Mr. DENHAM. I was relying upon what I conceived to be the good sense and good judgment of the committee, sir.

Senator NEELY. Well, your reliance on judgment then in that particular has been justified?

Mr. DENHAM. It has been vindicated; yes, sir.

Senator NEELY. How many cases all told—

Senator DONNELL. Would the Senator permit just for a moment?

Senator NEELY. Yes, sir; I will be glad to yield.

Senator DONNELL. Mr. Denham, I do not want you to violate any confidence. If you are not in a position to answer this, you need not. Are you in a position to tell us what Member of Congress it was who asked you for this information as to the comparison of his State laws with the Taft-Hartley Act?

Mr. DENHAM. I would prefer not to, without the permission—

Senator TAFT. Was he a member of this committee?

Mr. DENHAM. No, sir.

Senator DONNELL. Are you in a position to tell us without violation of confidence whether he was a Democrat or a Republican?

Mr. DENHAM. I think he was a Democrat, Senator. It is my understanding that he was. I would not be sure of that.

Senator NEELY. Do you mean a regular Democrat or one who is for the Taft-Hartley law? The Democratic platform promised repeal of that law and those who are loyal to the party still intend to do everything in their power to redeem that promise.

Mr. DENHAM. I do not know anything about that, Senator Neely.

Senator NEELY. You do not mean to say you do not know that such promise is in the Democratic platform?

Mr. DENHAM. What do you mean, repeal the Taft-Hartley Act?

Senator NEELY. Yes.

Mr. DENHAM. I have not had cotton in my ears. Since the campaign began I know that is part of the Democratic platform, to repeal the Taft-Hartley law, but I want to say this in connection with this other matter, that we have been frequently called upon by Members of the Congress, especially Members of the Senate, to compile data for

them that they want to use for whatever purpose they want to use it, in connection with carrying on the business of the agency. There is nothing unusual about making this compilation for the Senators that I speak of.

Senator NEELY. You need not shake your gory locks at me. I never asked you to do anything of that kind.

Mr. DENHAM. No; you have not. As a matter of fact, I think since I have been here it is the first time I have had the privilege of meeting you, sir.

Senator NEELY. That has been a great misfortune for both of us.

Mr. DENHAM. I think, if we knew one another better, we would probably like each other more.

Senator NEELY. We might agree on a great many things, but never on anything concerning the Taft-Hartley law.

Mr. DENHAM, how many cases have you prosecuted and how many actions have you instituted against employers since you became general counsel for the Labor Board?

Mr. DENHAM. If you will pardon me while I see if I can dig out my statistics on that—I have some here as of the 1st of February. There have been 4,460 charges filed against employers since the Taft-Hartley Act was enacted and there was a carry-over of 2,093. As of the first of the year, all of the Wagner Act cases were out of the way except 483, and there were 1,817 cases pending against employers under the Taft-Hartley Act. When I say "cases" I am referring to charges that had been filed.

Senator TAFT. Under 8 (a)?

Mr. DENHAM. Under 8 (a); yes, sir. On the basis of 583 charges which were consolidated in one way or another, 453 charges that were consolidated, we have issued 310 complaints against employers.

Senator NEELY. Three hundred and ten?

Mr. DENHAM. Yes, sir.

Senator NEELY. That is all told?

Mr. DENHAM. That is all told as of the 1st of December. We have issued 69 against unions and we have issued 15 complaints in which the unions and the employers were both made parties.

Senator NEELY. Three hundred and ten complaints against employers, and how many against unions?

Mr. DENHAM. Sixty-nine against unions.

Senator NEELY. Sixty-nine?

Mr. DENHAM. Sixty-nine; yes, sir; and 15 against unions and employer together in which they were codefendants.

Senator NEELY. How many of the 310 cases in which complaints were issued have been decided?

Mr. DENHAM. There have only been six cases decided under the Taft-Hartley law.

Senator TAFT. You mean by the Board and not by the examiners?

Mr. DENHAM. Quite a number of trial examiners have issued intermediate reports, but I do not have figures on those.

Senator NEELY. How many of the 310 complaints have been finally settled?

Mr. DENHAM. I beg your pardon?

Senator NEELY. How many of the 310 cases in which you say complaints were issued have been settled?

Mr. DENHAM. Quite a number have been settled. I do not have the figures. That requires a bigger break-down, sir, than I have in this material.

Senator NEELY. Do you know whether a majority of the cases settled were decided in favor of the employers or against them?

Mr. DENHAM. Well, I am quite certain that of those where the complaints have issued, there have been none of them as yet determined by the Board.

Senator NEELY. All of those 310 cases are still pending?

Mr. DENHAM. The Boeing Aircraft case is the only case in which the Board has made a decision. One out of the six the Board decided was directed against the employer.

Senator NEELY. How many of the six cases in which you say complaints were issued against labor unions have been decided?

Mr. DENHAM. Five.

Senator NEELY. For or against the union?

Mr. DENHAM. In all of them they were decided against the union by the Board.

Senator NEELY. But you don't know how the ones against the employers were decided?

Mr. DENHAM. I beg your pardon?

Senator NEELY. You don't know whether any of these 310 complaint cases, which you have mentioned, have been decided for or against the employers, with the exception of the aircraft case?

Mr. DENHAM. That is the only one I know. There have been a lot of cases disposed of by stipulation. In the major portion of those cases where the parties disagreed, they have agreed to the order which will be entered against the company, against the employer, and the Board order will be entered, and they usually provide also a decree of court may be entered against them.

Senator NEELY. In a word what was the decision in the airplane case?

Mr. DENHAM. The airplane case was one where the court had determined that they were not properly in court under an injunction. We went in for an injunction to restrain them from conduct toward the union.

The court turned us down on the theory that actually these employees had lost their employee status because they had not complied with the requirements of section 8 (d) of the act. Consequently, the petition for restraining order was denied.

Then when the trial examiner heard the case on the merits, he found that our contention was an appropriate one and that these people did still maintain their employee status and were entitled to be reinstated, and the Board found there had been a refusal on the part of the employer to bargain and directed that that be corrected and the parties be put back to work.

Senator NEELY. Do you recall any case against an employer in which a heavy fine was imposed?

Mr. DENHAM. The Board does not impose fines. It has no authority to impose fines.

Senator NEELY. But do you know of any case in which the court imposed a fine as a result of some proceeding?

Mr. DENHAM. The court has no authority to impose fines against anybody in Labor Board cases.

Senator NEELY. Nobody except labor unions or somebody like John L. Lewis, William Green, or Philip Murray.

Mr. DENHAM. You are getting into a different territory. I am thinking of the prosecution of unfair labor practices.

Senator NEELY. I mean anything arising under the Taft-Hartley law including injunctions.

Mr. DENHAM. There was the same thing under the Wagner Act. The procedure is identical in both cases.

Senator NEELY. But the conclusions of the court and the impositions of fines are very different.

Mr. DENHAM. Senator, the courts do not impose any fines under the unfair-labor-practice provision. The fines you are talking about are imposed for contempt of court.

Senator NEELY. Please let me make it clear that I am not restricting myself to one provision of the Taft-Hartley Act. I am talking about the Taft-Hartley Act as a whole and its effect on the people.

Do you know of any other labor law under which such fines were ever imposed upon toilers as have been imposed under the Taft-Hartley Act?

Mr. DENHAM. I don't know.

Senator NEELY. I am thinking particularly of the fine on Mr. Lewis and the United Mine Workers.

Mr. DENHAM. On the other hand, when the court issues orders and injunctions, the citizens of the United States are expected to comply; and if they refuse to comply and are in contempt of court, they must expect to be fined.

Senator NEELY. Of course, if you were a labor union under the Taft-Hartley law, that would be true; but do you know of anything similar to that under any other law?

Mr. DENHAM. Injunctions were not permitted in general under the Norris-LaGuardia Act. This is a special act.

Senator TAFT. Mr. Clark says he can do it under the Constitution, doesn't he?

Mr. DENHAM. Mr. Clark says that.

Senator NEELY. Mr. Denham, I have concluded from your testimony that you believe the Taft-Hartley law is about the best labor statute that has ever been enacted. Is my conclusion correct?

Mr. DENHAM. Up to this time, it is the best one we have had, in my estimation. It still is imperfect, and can be perfected, as can almost any first piece of machinery be perfected.

Senator NEELY. You are in favor of maintaining all of its important provisions, are you not?

Mr. DENHAM. I would do away with the union-shop election. I think it is useless. It is a waste of time and an imposition on everybody.

Senator NEELY. Would you do away with the open shop?

Mr. DENHAM. I would make very much broader provisions for the union shop than is provided for in this law.

Senator NEELY. How about the open shop?

Mr. DENHAM. The open shop is there, and the union shop only comes in if the employer and the union can agree upon such a provision.

Senator DONNELL. Is the Senator referring in the John Lewis matter to the United Mine Workers' suit in which several millions dollars' fine was imposed upon the union?

Senator NEELY. Yes, sir.

Senator DONNELL. That was decided March 6, 1947, and the Taft-Hartley Act didn't go into effect until June 23, 1947. It had nothing in the world to do with the Taft-Hartley Act. It didn't relate remotely to it.

Senator NEELY. That is not my understanding.

Senator DONNELL. In 330 U. S. 258, if you will read that—that being the mine workers' case—you will find it had nothing to do with the Taft-Hartley Act. It was argued months before the Taft-Hartley Act was passed. It related to the Smith-Connally Act passed years before.

Senator NEELY. The fines were imposed in the first case under a law, the substance of which was embodied in the Taft-Hartley Act.

You are right about the first case being under the Smith-Connally Act; but, of course, every objectionable feature in that law and a great many more were embodied in the Taft-Hartley Act.

Senator DONNELL. I would like to say the seizure provision under which the President seized the mines isn't in the Taft-Hartley Act. There isn't any provision even analogous. Am I correct, Senator Taft?

Senator TAFT. That is correct.

Senator NEELY. I wonder how they happened to leave that out.

Senator DONNELL. You will have to make further inquiry. I believe you were in the House of Representatives at the time the vote occurred. You could answer it.

Senator NEELY. I was not a Member of the House when the law was passed.

Senator DONNELL. Were you not present when the Taft-Hartley Act was passed in 1947?

Senator NEELY. No; I was not.

Senator DONNELL. I thought you were. I beg your pardon. You were there before.

Senator NEELY. Mr. Denham, I understood you to say that you are opposed to the closed shop.

Mr. DENHAM. The closed shop as such and the closed union I have very little patience with.

Senator NEELY. You have stated that you are a lawyer. Are you a member of what is known as the integrated bar?

Mr. DENHAM. The what?

Senator NEELY. The integrated bar. You know, in recent years, laws have been passed in various States providing that, no matter what a lawyer's qualifications are, or to how many bar associations he belongs, he must join what they call the integrated bar and pay it dues, or lose his right to continue to practice his profession. A number of States now have this law.

Mr. DENHAM. I know they have.

Senator NEELY. Have they that law in the State in which you practice?

Mr. DENHAM. Senator, I am admitted to the bar of Missouri, Texas, Michigan, Washington, Florida, and I have not been in active practice of law, as you well know, for some 12 years. Prior to that, my work was such that it did not require me to go into court. I have been in the District of Columbia quite a good deal. I have not been actively working before any of the courts for quite some years. So I have not kept

up with the new developments. I understood they have something of that character in Missouri; I don't know of any of the other States.

Senator NEELY. Did you practice in Missouri?

Mr. DENHAM. For a short time.

Senator NEELY. I suppose, by virtue of your appointment, you can practice for the Government in any State in the Union?

Mr. DENHAM. Yes.

Senator NEELY. And you probably are one person who would be exempt from the operation of the integrated bar act but it provides a closed shop for lawyers?

Mr. DENHAM. I am not familiar with it.

Senator NEELY. As Governor, I vetoed the bill, but under a succeeding administration it was passed, and it is now the law of my State that no lawyer can practice in West Virginia unless he has become a member of the closed shop integrated bar association.

Mr. DENHAM. I think that is the rule in Missouri.

Senator NEELY. Are you opposed to that closed shop?

Mr. DENHAM. I hadn't had the opportunity or occasion to study it, and I don't like to give an opinion on it offhand.

Senator NEELY. But you are opposed to the closed shop?

Mr. DENHAM. As such. On the other hand, the union shop—

Senator NEELY. The open shop, you mean?

Mr. DENHAM. No; I said the union shop, and there is a lot of difference.

Senator NEELY. Do you think that a union can be maintained very long with an open shop?

Mr. DENHAM. There is no such thing as open shop and union shop; they can't occupy the same space.

Senator NEELY. I am thinking of a corporation that has a number of union men working for it but it has an open shop. It has in one or two of its departments men who do not belong to unions. Would you call that a union shop?

Mr. DENHAM. I don't know. They might have a maintenance-of-membership provision there. It may be an open shop in which there is no question being raised. It may fall into any of several categories, but it isn't clearly an open shop unless the employer makes a habit of going out and hiring people and putting them to work and there is no requirement on them either at the time of their employment or at any subsequent time to become members of the union or to pay dues.

Then it would be an open shop. But the union shop, sir, is the one where the employer hires whom he desires, but, within a given, agreed-upon period of time after employment, that man must become a member of the union and thereafter must maintain himself in good standing.

A union shop eventually becomes a closed shop except as it is affected by the speed or the amount of turn-over in employment in that shop.

Senator NEELY. In becoming members of unions in that manner, do not questions of jurisdiction frequently arise?

Mr. DENHAM. I don't think so, not there, because ordinarily, where you have a union shop, that union shop exists by virtue of the existence of a recognized representative who has bargained with the employer and has entered into an agreement which provides for the union shop.

Senator NEELY. Then you are really for the closed shop provided it is closed by means of the procedures you have outlined?

Mr. DENHAM. There is a distinction between the union shop and the closed shop, which I think we all recognize. It allows the employer certain freedom to hire whom he wants to, but eventually and within a period of relatively few days that fellow has to go in and become a member of the union; and, if nobody else is hired, eventually they have a closed shop.

Senator NEELY. Do you favor the closed shop in the circumstances you have mentioned?

Mr. DENHAM. I favor a union-shop procedure. I recognize it may develop into a closed-shop situation. I believe that the union-shop procedure should be allowed to develop, that the union should be allowed to discipline its members for breaches of reasonable rules and regulations. I believe that, when the union has that right to discipline a member and by disciplining him to deprive him of his job, the union must be ready, willing, and able to stand behind the reasonableness of its action in expelling a man.

Senator NEELY. Is the union shop under the Taft-Hartley Act similar to the union shop under the Wagner Act?

Mr. DENHAM. Heavens, no. Under the Taft-Hartley Act, it is only a medium of requiring the employees in a plant to pay a certain amount of money each month for the support of the union, and that is all.

Senator NEELY. Do you believe in a check-off system?

Mr. DENHAM. The voluntary check-off, yes; not the contractual check-off.

Senator NEELY. That is all.

Mr. DENHAM. By the way, Senator, you made the statement, I think, that the Taft-Hartley Act had been detrimental to the country. I have just received a recent release from the Bureau of Labor Statistics which shows the average number of new work stoppages per month, workers involved in new stoppages, and then the over-all man-days idle on all stoppages for four periods.

Senator TAFT. That was put in evidence by Mr. Tobin himself.

Mr. DENHAM. I beg your pardon. I did not know it was already in.

Senator NEELY. Under the Taft-Hartley law you can prevent men from striking and you can compel them to work against their will.

Mr. DENHAM. I beg your pardon?

Senator NEELY. Do you consider a virtue in the Taft-Hartley Act under it men can be compelled to work against their will?

Senator DONNELL. I object to that statement. That isn't the Taft-Hartley law. There is nothing to that effect.

In fact section 502 of the Taft-Hartley Act says:

Nothing in this act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent. * * *

Senator NEELY. You heard the testimony of Mr. Randolph, did you not?

Senator DONNELL. I did not hear him. I was en route to Missouri.

Senator NEELY. If you had heard his testimony, I do not believe you would make that argument.

MR. DENHAM. Mr. Chairman, if I am to be excused, I would like to call to the attention of the committee a few points which I don't think have been dwelt upon and which have been very much in the picture.

THE CHAIRMAN. We are working under a time limit now, and your time will have to be charged to one side or the other, and I doubt very much whether either side will be willing to have your time so charged.

SENATOR TAFT. Mr. Chairman, I suggest that whatever Mr. Denham has to offer be submitted in the form of a written statement.

MR. CHAIRMAN. Very well, you may do that, Mr. Denham.

MR. DENHAM. It is a matter of the definition of the word "officers" and the treatment of judisdictional disputes. The latter is terribly important to me, and it is inadequately handled under the law now under consideration.

THE CHAIRMAN. Thank you, Mr. Denham, for coming.

(Subsequently Mr. Denham addressed the chairman as follows:)

NATIONAL LABOR RELATIONS BOARD,
Washington 25, D. C., February 23, 1949.

HON. ELBERT D. THOMAS,

*Chairman, Senate Committee on Labor and Public Welfare,
United States Capitol, Washington 25, D. C.*

DEAR SENATOR THOMAS: During my testimony the week before last, Senator Morse asked me to supply the committee with a memorandum listing all cases in which an injunction was obtained under section 10 (j) of the Taft-Hartley Act, and showing how long each injunction was in effect, and, if still in effect, the status of the case before the Board. I furnished some of this information during my subsequent testimony (see pp. 2587-2588 of the transcript of hearings but I assume the committee would still like to have a brief memorandum on the subject.

Section 10 (j) injunctions were obtained in three cases: (1) The General Motors case, (2) the International Typographical Union case, involving the newspaper industry, and (3) the United Mine Workers of America, involving the union's refusal to bargain with Southern Coal Producers' Association. In addition, in the Local 294, Teamsters Union case, in which application for injunctive relief on secondary boycott charges under section 8 (b) (4) (A) was mandatory under section 10 (1), relief under section 10 (j) also was requested because the conduct which constituted the secondary boycott was enmeshed in the other unlawful conduct.

In the General Motors case, upon notice to all parties, a temporary restraining order was obtained on January 29, 1948, effective until the hearing on the injunction petition, which was set for February 3, 1948. On the latter date, General Motors consented to the continuance of the temporary restraining order, without further hearing, until June 1, 1948, prior to which date annual contract negotiations with the United Automobile Workers, which had filed the charge, were scheduled to be held. During these negotiations General Motors and the United Automobile Workers reached an understanding regarding the new insurance plan, the installation of which without collective bargaining was the subject matter of the restraining order, and requested dissolution of the order. Accordingly, on June 1, 1948, the temporary restraining order was dissolved and the injunction petition was dismissed. Meanwhile, on May 3, 1948, the trial examiner, after hearing, issued his intermediate report sustaining the complaint. On February 18, the Board issued its decision and order, finding the company had engaged in the alleged unfair labor practices.

In the International Typographical Union case (reported at 76 F. Supp. 881) the injunction was entered on March 27, 1948, and continues in effect. On August 13, 1948, the trial examiner, after hearing, issued his intermediate report. The trial examiner found that the International Typographical Union and its international officers had engaged in violations of sections 8 (b) (1) (A), (1) (B) and (2), but recommended dismissal of the charges under section 8 (b) (6) and certain charges under section 8 (b) (1) (A). The case is before the Board on exceptions to the intermediate report and requests for oral argument, which as of this date has not been scheduled.

In the United Mine Works case (reported at 79 F. Supp. 616) the injunction was entered on July 4, 1948. Thereafter, the subject matter of the unfair labor practices charge was settled by the parties without further formal proceedings. Accordingly, on November 10, 1948, upon consent, the injunction was dissolved and the Board case was closed.

In Local 294, Teamsters Union case (reported at 75 F. Supp. 414) the injunction was entered on January 17, 1948. On June 13, 1948, the trial examiner issued his intermediate report recommending dismissal of the complaint. The case is before the Board upon exceptions to the intermediate report and request for oral argument, which as of this date has not been scheduled.

Brief statements of the facts and issues involved in the above as well as other injunction cases may be found at pages 84-94 of the Thirteenth Annual Report of the National Labor Relations Board.

A copy of this letter is being sent to Senator Morse.

Sincerely,

ROBERT N. DENHAM, *General Counsel.*

Next we will hear from Mr. Glenn Gardiner.

Senator SMITH. Mr. Chairman, I would like to make a very brief statement in connection with Mr. Gardiner's testimony. I appreciate Mr. Gardiner was called at my suggestion, because Mr. Gardiner represents one of the most important textile industries in my State of New Jersey and probably one of the most important in the United States.

It is a matter of pride to us in New Jersey that we have been able, I think, for a period since 1926 or thereabouts, to avoid any industrial strife in our textile industry, and I am glad to pay this tribute to Mr. Gardiner. He has been with the Forstmann Mills during that period, and he is the one man who I think has pointed up this possibility of settling management-labor disputes through the reasonable methods of negotiation and agreement rather than through the method of balance of power or warfare between two large groups.

So it is with great pleasure that I, as a member of this committee, welcome Mr. Gardiner here to give us his point of view as to the proper approach to this important subject of management-labor legislation.

STATEMENT OF GLENN GARDINER, PRESIDENT, NEW JERSEY STATE CHAMBER OF COMMERCE, AND VICE PRESIDENT, FORSTMANN WOOLEN CO., PASSAIC, N. J.

Mr. GARDINER. Mr. Chairman and members of the committee, my name is Glenn Gardiner and I am president of the New Jersey State Chamber of Commerce and vice president of the Forstmann Woolen Co. of Passaic, N. J.

The CHAIRMAN. For whom do you appear?

Mr. GARDINER. I am appearing for the chamber of commerce.

Senator TAFT. And for the Forstmann Woolen Co. also, Mr. Gardiner?

Mr. GARDINER. Just the chamber of commerce.

I have prepared a brief, which I will high light very briefly for you and then submit to any questions you may desire. I will confine that high lighting to about 10 minutes.

The CHAIRMAN. That is right.

Mr. GARDINER. Labor-management cooperation cannot be legislated. Good relations between management and labor can only be achieved through a sincere mutual desire on the part of both parties.

The wrong kind of labor law, however, can exert a disruptive in-

fluence, particularly if either labor or management feels that the law is prejudiced, either in its provisions or its administration.

The fact that laws cannot create good relations does not mean that there should be no laws regulating the conduct of management and labor in their relations each with the other. Labor law serves an important function in spelling out the rules of the game. Broadly speaking, labor law is a reflection of what the public believes should be the basic principles governing the relationship between management and labor. Both management and labor should look upon labor law as an indication of how the general public expects them to deal with each other.

For companies and unions who have learned how to work together in good faith, there is probably little need for any labor legislation. The law against murder is unnecessary for ninety-nine out of a hundred of our citizens. The person who does not bear murder in his heart is indifferent as to whether or not there is a law against murder. A large and growing proportion of employers and their employees appreciate that good relations depend more upon the spirit of mutual respect and cooperation than upon any technicalities of labor law.

It is not my purpose to present arguments for or against the Labor-Management Relations Act of 1947, or its predecessor, the National Labor Relations Act. Already there has been too much emotionalism involved in discussions of these labor laws. What I do propose is to present for your thoughtful consideration, some of the very important provisions which should be included in labor legislation now being discussed and recommended for passage by the Congress.

Labor law must provide for equal and impartial treatment of both labor and management. If one football team were required to make 10 yards in 4 downs, while its opposing team were only required to make 8 yards in 4 downs, no one would regard the rules as fair, nor could we expect the game to be successful.

Similarly, any failure in a labor law to provide equal consideration for both labor and management is foredoomed to ultimate failure. Whatever justification there may have been for weighting the original Wagner Act, because of inequality in bargaining power, does not exist today. To be successful in operation, labor law must be recognized by both labor and management as giving equal consideration to the rights, responsibilities, obligations, and interests of both.

Labor legislation should be based upon the fundamental concept that there is a wide area of mutual interests shared by management and labor. If we legislate on the assumption that management and labor are inherently in two opposite and hostile camps, we will tend to perpetuate hostility, dispute, and controversy. In the enactment of legislation, Congress should be looking for ways to unite all groups for the common good.

Certainly, if impartiality in the provisions of the new law is to be achieved, recognition must be given to the fact that unfair labor practices should be defined for unions as well as for companies. One of the surest ways to breed disrespect and hostility is for the provisions of the law to assume that one party can do no wrong and that the other party has the exclusive tendency to sin. Obviously, if certain unfair labor practices are defined for employers, there should also be a definition of unfair labor practices on the part of employee organizations.

Senator SMITH. I notice the witness is skipping, very properly to save time, but I ask that his whole statement be inserted in the record.

The CHAIRMAN. That is understood.

Mr. GARDINER. No labor law can be deemed fair, if it inflicts undue restrictions on the freedom of speech as guaranteed to all citizens. The unfairness is even more flagrant if these restrictions are applied to one party and not to the other.

If a governmental agency is to function effectively as a conciliation or mediation in industrial disputes, both parties must have implicit faith in the neutrality and impartiality of that agency. Unless Conciliation and Mediation is set up as an independent agency, employers will not regard it as an important agency and it will fall short of its potential effectiveness in the public interest.

Now, the preservation of democracy within the union is essential and must be protected to whatever extent the law can do that. It has become apparent that the more democratic a union is, the more susceptible it may be to infiltration by elements who would avail themselves of the privileges of democracy to undermine the leadership of the union, and to foment disharmony, confusion, and controversy between the union and the company. The insinuation of Communists into labor unions constitutes a grave threat to the leadership of our most democratic unions. There is serious question as to whether the requirement of labor leaders to take an oath that they are not Communists serves the purpose for which it is intended. There is nothing in the conscience of a Communist which would prevent him from swearing falsely. Merely requiring the anti-Communist oath from the union leader, therefore, constitutes little protection for the union or its leaders from the rank-and-file Communists who carry on their activities within the membership.

New labor legislation should permit union leadership sufficient power to discipline or expel members for other reasons than nonpayment of dues. Provisions should be made, of course, for an appeal on the part of any union member who feels he has been unjustly disciplined. If need be, this appeal can be made to the National Labor Relations Board.

The quality of democracy in labor unions is something to be preserved at all costs. Only thus can the basic freedom of the individual worker be properly protected.

With the growth and power of the labor movement, the public has come more and more to recognize that corresponding responsibilities rest upon labor unions. There is a preponderant feeling among employees themselves that labor laws should require unions to render financial reports. This is as much a protection for union leaders themselves as it is for the membership. Since the public through laws has guaranteed many rights and privileges for labor unions, there is a widespread feeling in the public that those in positions of leadership within unions should be held accountable to the membership, and one evidence of the competent and honest handling of that stewardship may be evidenced in the making of financial reports to those entitled to receive such information.

I would like to speak of the status of foremen under this proposed legislation.

When we examine what foremen do, we recognize that their principal duties are managerial in character. They perform functions

which the general manager would personally carry out if he could divide himself into enough persons to be at a score of places at one time, and multiply his intimate knowledge of details sufficiently to make accurate decisions on the multitude of questions which must be answered every working hour of the day or night.

Since it is physically and mentally impossible for the chief executive of a company to thus distribute himself, subordinate executives and foremen act in his place in the management of departments, subdivisions, and areas of the business. He delegates to them the responsibility and authority to function for him in their respective jurisdictions. In the performance of their supervisory duties, such functions as the following are included in the activities of foremen:

Selection and hiring of employees; assignment of men to jobs; instructing men in their job duties; imparting a knowledge of company policies and regulations; planning and laying out the work; improving job methods; getting from employees an hour's work for an hour's pay; controlling the cost items in getting work done; maintaining the quality of work; conserving material and supplies; administering the wage plan; determining the work load for employees; preventing accidents and work injuries; enforcing rules and standards; helping to formulate regulations and policies; maintaining discipline among workers; adjusting grievances.

The managerial character of a foreman's job becomes more apparent when we think of him as a manager of a business within a business. In his department he deals, directly or indirectly, with all the elements and problems which confront the manager of an independent business. In his department he is responsible for a considerable investment in equipment, work space, material, and labor.

The nature of a foreman's functions resembles that of the general manager of the company. The difference is chiefly in scope. The general manager is responsible for the company's entire investment in plant, equipment, material, and labor. The foreman's responsibility for these same factors is limited to his own department or section. The general manager gets his results through the executive and staff personnel who report to him. The foreman gets his results through the worker personnel who report to him.

In view of the managerial character of the foreman's function, it is essential that any labor legislation, affecting management-labor relations, should recognize that foremen are a part of management and should not be included within the scope of legislative provisions affecting the status of rank-and-file employees. Throughout the life of American industry, the foreman has been a part of management and the direct representative of management at its initial point of contact with rank-and-file workers. This has been the traditional position of the foreman.

The Labor-Management Relations Act of 1947, section 2 (3) defines the word "employee" and provides that the term "shall not include * * * any individual employed as a supervisor." Section 2 (11) defines the term "supervisor" in the following language:

The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Section 14 of the act provides as follows:

Nothing herein shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer, subject to this act, shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining.

It is to be noted that this does not forbid the unionization of foremen for collective-bargaining purposes. This is carefully spelled out in section 14 quoted above. What the act does do is to distinguish between supervisors as therein defined as a part of management, in contrast to rank-and-file workers, and to provide that supervisors shall not be entitled to the benefits and privileges of the act.

It is recommended that the provisions of the Labor Management Relations Act of 1947, relating to supervisors, be retained and made a part of any new labor law.

In conclusion, I desire to emphasize the need for enacting labor legislation designed to unify labor and management—not to separate them into warring camps. The growth of labor unions during the last 15 years has definitely established the fact that unions are here to stay. This fact is accepted by the preponderant majority of the public and of members of management. The American people believe in unions, but want proper checks on their power.

It would be no favor to unions if labor legislation were to be passed which permitted that minority of labor leaders who might take advantage and indulge in excessive use of power in a manner to bring disfavor with the public upon all of organized labor. That happened in the past and will happen again, unless wisdom and statesmanship in the Congress prevail at this time. The new labor law should in no way hamper the attainment of the legitimate aspirations of labor. At the same time, the law, finally passed, should impress management, labor, and the public with its fairness.

The CHAIRMAN. Are there any questions?

Senator TAFT. Do you want to go ahead?

Senator SMITH. I would like to ask a question in his field.

Can you give us a quick picture of the way you have developed your management-labor relations, as you have discussed it with me a number of times, in bringing about a greater understanding upon the part of the workers as to the problems of the management and a better understanding on the part of management of the problems of the workers? I understand you have a close relationship, developed over the years, which in your judgment has had a lot to do with the avoidance of hard feelings and strikes.

Mr. GARDINER. There has been nothing legalistic or technical in that. It has been a matter rather on the basis of common sense on the part of both management and labor, with the understanding that management has no desire to undermine the security of the union or its leadership.

I think that the principle which we have succeeded in evolving—it is not new, it is very old—is that it is more important what is right than who is right. I think that is very true in this legislation pending here. What is right is more important than whose platform it was in or who presents arguments pro and con here before you.

Senator SMITH. Would that statement imply that you think it would be unfortunate if we just have partisanship in this and either the Re-

publican or the Democratic Party tries to get the credit for anything good that is done? Do you think it ought to be a bipartisan movement to bring about better management-labor relations in this country?

Mr. GARDINER. Yes; and if that does not happen, employers and unions who have heretofore got along together will be in between and subject to a lot of things. The mutual interests they have in common ought to be protected and not hampered in any way.

Senator SMITH. How have you worked out the freedom of speech issue in the Forstmann plants?

Mr. GARDINER. I don't know that the issue has ever arisen.

Senator SMITH. That is the reason I raise the question. There was never any question about your talking freely with your employees?

Mr. GARDINER. There has never been any question about that. An employer has to ask himself one important question, which is: Do you think this union is going to be a permanent feature in your business? If the answer to the question is negative, you will have a negative labor policy. If you answer it affirmatively, then it logically follows you will do everything possible to make the union a good and responsible partner in the picture and you will not attempt to render their position insecure.

Senator SMITH. I like the use of the word "partner." I take it you look upon them more as partners in your enterprise than as antagonists.

Mr. GARDINER. I think the areas of mutual interest are broader than the areas of apparent conflict, and we ought to be emphasizing the areas of mutual interest rather than the areas of apparent conflict, and we should not have labor legislation which tends to get technical and legalistic. This is not a legalistic question, although I fully recognize there has to be the matter of legalistic angles because there are still some unions and some employers who do need to have rules of the game laid down for them.

Senator SMITH. I notice you discussed the foremen issue, and I am wondering whether the workers in your plant have come to a general agreement with you in regard to the functions of foremen, and whether you still think it is desirable to handle the foremen issue the way we handled it in the so-called Taft-Hartley Act.

Mr. GARDINER. I think that is an issue in relatively few places, but it can likely become an issue if we approach the thing from a legislative or legalistic point of view. I would prefer to see either the process embodied in the Taft-Hartley law retained or left out entirely, except for a definition of who is an employee, and make it very clear.

Senator TAFT. What do you mean? What alternative have you? The Board decided the question two or three different ways before the act went into effect, and we tried to settle it. You have to have some provision.

Mr. GARDINER. I am in favor of the definition contained in the present act. I don't know of any better.

Senator TAFT. You regard that apparently as of great importance. You devote a lot of your testimony to that.

Mr. GARDINER. It is of very great importance. It is important because of its ultimate effect upon the operations of management, the functions themselves, and upon the status of foremen themselves; because if foremen become unionized, I think there is only one thing that could result. Management would have to change the functions

of foremen to a considerable extent because it would be almost impossible to operate with the management house divided against itself.

Senator SMITH. You would have to have a substitute for the foremen?

Mr. GARDINER. You would have to have someone handling labor problems within the area the foremen now handle. It would, therefore, cut down the importance and prestige of the foreman's present status.

Senator SMITH. Mr. Gardiner, what is the closed-shop-union-shop status in your plant?

Mr. GARDINER. We have a union shop, which we voluntarily gave the union after it had proved itself dependable and reliable. I personally felt that it was important to give the leadership of the union that sense of security all of us like to have—a feeling that we had no intention of trying to undermine the union—and I don't know of anything that could have accomplished that more effectively than to voluntarily give the union the union shop.

Senator SMITH. You recognized and gave respect to union leaders and challenged them by that method to be a partner in your whole production enterprise?

Mr. GARDINER. That is right.

Senator SMITH. That is what I understood from talking to you about this and I am very much impressed with that approach. Furthermore, you suggested to me that you personally, as the vice president and the man who has the personal relations developed with your workers, you are on close terms with the union and talk over your problems with them and they participate with you in developing answers.

Mr. GARDINER. I think personal consultation is very important. Of course, we feel that management should have certain prerogatives. We don't think they should guard those prerogatives with a dog-in-the-manger attitude, but even considering those prerogatives that doesn't preclude the possibility or even the wisdom of consulting with union leadership on matters which you must eventually decide yourself.

Senator SMITH. On the other hand, you recognize that the union leaders have certain responsibilities to their people which it is not your business to butt into or interfere with?

Mr. GARDINER. That is right.

Senator SMITH. They have a certain independence of action?

Mr. GARDINER. That is right.

Senator SMITH. You feel you can do more with this anti-Communist business by making it a responsibility of union membership—the unions themselves—rather than relying on the technicality of the anti-Communist affidavit?

Mr. GARDINER. I am very much concerned about the fact that the more democratic a union is, the more susceptible it becomes to the inroads of subversive elements, whatever they may be, and I don't believe that we can accomplish the purposes of protection of democratic unions just by the anti-Communist oath.

I believe somehow a method should be devised to go further than that, and one thing I did suggest in my statement was that the power of discipline should be extended beyond expulsion only for nonpayment of dues. I am fully conscious of the fact that that may have some points of weakness, too.

Senator TAFT. You suggest, however, that it be subject to review by the Board?

Mr. GARDINER. Yes. Then I know that unions are facing this thing, and I don't think there is anybody more concerned than the leaders of democratic unions about this matter, and I think if something can be done to protect that we will be protecting a most important function in our whole democratic process.

Senator SMITH. You would give unions a good bit of freedom in determining what their laws and regulations should be governing membership, but you would also have certain checks by the NLRB as to things which might be oppressive on the individual workers?

Mr. GARDINER. Yes; because those powers can be abused, too, human nature being what it is.

Senator SMITH. To what extent should our legislation cover those questions such as excessive dues, initiation fees, or other regulations that might be oppressive on the worker, and on which he might not have strength enough to protect himself? Have we responsibility as government to make any restrictions?

Mr. GARDINER. I think you have responsibility to legislate to provide some place of appeal for the person who may feel that he has been unjustly dealt with within the organization of a union, which has been given certain responsibilities by law.

Senator SMITH. That is all I have for the moment, Mr. Chairman.

The CHAIRMAN. Any questions?

Senator TAFT. I think I have some, but I will defer to Senator Pepper.

Senator PEPPER. Mr. Gardiner, did you know that of the 42 injunction suits which have been brought by Mr. Denham, the general counsel of NLRB, under the Taft-Hartley law, that 40 of them have been brought against unions and 2 against employers?

Mr. GARDINER. I haven't had any particular interest in the technicalities of the law. As a matter of fact, I can't be sure that I, any more than most union leaders, have ever read the entire act.

Senator PEPPER. Did you know that the law provided that in certain cases it was mandatory upon the general counsel to seek some sort of injunction in case he found certain facts to exist, in his opinion, whereas there were no corresponding provisions in respect to his action against employers in the act?

Mr. GARDINER. I didn't know that.

Senator PEPPER. Did you know that in section 303 (a) of the Taft-Hartley Act there were at least four categories of cases which were made the subject of law suits against unions, which are defined as unfair labor practices, but that there are no corresponding categories of cases where unfair labor practices by employers are made the subject of law suits by unions against them in the Federal courts?

Mr. GARDINER. If I were to be consistent, I would say equal treatment should be accorded to both.

Senator PEPPER. Are you a lawyer?

Mr. GARDINER. I am not a lawyer.

Senator PEPPER. You have not examined this act so that you can say personally whether you think the act does balance the obligations and duties imposed upon management and labor?

Mr. GARDINER. I think the act comes a lot closer to balancing than its predecessor did.

Senator PEPPER. As a matter of fact, under the Wagner Act was there very much duty imposed upon either one? Was there any duty imposed upon management except to bargain collectively with the chosen representatives of the labor union when the representatives had been duly chosen and an obligation on the employer not to interfere with the rights guaranteed under that law to the labor union? Was anything else required of the employer under the Wagner Act?

Mr. GARDINER. I think under the Wagner Act—let me report to you the feeling of people in the employer group—they felt it was decidedly a one-sided act and, therefore, lacked a lot of the confidence that is necessary in any labor legislation if it is to operate successfully.

Senator PEPPER. It imposed the duty upon management to bargain collectively with the chosen representatives of the employees, didn't it?

Mr. GARDINER. Yes.

Senator PEPPER. It didn't impose any other affirmative obligations upon them, did it?

Mr. GARDINER. Well, it imposed a great many restrictive provisions.

Senator PEPPER. It said not to interfere with their elections. There wasn't anything wrong with that, was there?

Mr. GARDINER. In its restriction of freedom of speech it was very wrong.

Senator PEPPER. That was up to the Board to determine what freedom of speech is.

Mr. GARDINER. We didn't like the interpretations of freedom of speech they made.

Senator PEPPER. As a matter of fact, we haven't said much about it in these hearings, but whose business is it, after all, whether these workers associate themselves for their common interest? Is it their business or that of their employers?

Mr. GARDINER. It is their business entirely.

Senator PEPPER. Haven't the employees a complete right to form themselves into associations, fraternal, religious, or economic, if they want to do so?

Mr. GARDINER. Yes, sir.

Senator PEPPER. Isn't it, as a practical matter, a matter of great difficulty to write a law that will guarantee what is called freedom of speech to the employer in commenting to these workers about the formation of their union in such a way as to prohibit the abuse of the freedom of speech and to amount to substantial intimidation without any ability to prove it in court or before a board?

Mr. GARDINER. I think the Taft-Hartley Act did that quite successfully in its limitations on freedom of speech and that the exercise of the freedom of speech on the part of the employer should not be carried to the point of threats or promises of reward.

Senator PEPPER. That is a matter of proof, isn't it, and that is a matter where judgment has to be exercised by an impartial board or court somewhere? Whereas, this employee has got to form his own opinion as to whether what his employer said indicates that, if he is active in the unionization of that shop, he is not going to be advanced to the rank of foreman, that he is not going to be promoted in that shop. He is the fellow whose mind is the one to be affected, the employee.

Mr. GARDINER. I don't think, Senator, that legislatively we are ever going to control the thought processes of people.

Senator PEPPER. That is what they are attempting to do in the Taft-Hartley law.

Mr. GARDINER. Far less than in the Wagner Act.

Senator PEPPER. Far less controlling in the Taft-Hartley Act?

Mr. GARDINER. Yes; of the actions of both the employer and the employee.

Senator PEPPER. You can't mean that, Mr. Gardiner, that there is less control in the Taft-Hartley Act?

Mr. GARDINER. I mean that very sincerely.

Senator PEPPER. Was there any authority to get injunctions against anybody in the Wagner Act?

Mr. GARDINER. Not that I know of.

Senator PEPPER. You said there was less control in the Taft-Hartley Act than in the Wagner Act, or did you say it the other way?

Mr. GARDINER. Less control in the Taft-Hartley Act than in the Wagner Act of the freedom of speech and the actions, et cetera, of employers.

Senator PEPPER. There wasn't anything on it in the Wagner Act. It just said employers were not to coerce the employees and not to interfere with their elections, were to bargain collectively with their representatives.

Mr. GARDINER. We know of case after case that was heard and the freedom of speech went to the extent of the employer being held responsible for subordinate executives who were speaking entirely on their own making remarks.

Senator PEPPER. For whose benefit do the employees organize?

Mr. GARDINER. I think that the employees—

Senator PEPPER. For whose benefit do they organize?

Mr. GARDINER. For their own benefit.

Senator PEPPER. Do they have a right to organize?

Mr. GARDINER. Certainly.

Senator PEPPER. Why can't the employer let them alone in that right?

Mr. GARDINER. I think they should let them alone.

Senator PEPPER. You don't seem to be consistent when you say there should be the language that is in the Taft-Hartley law protecting their freedom of speech, which so easily may become an abuse and an intimidation that might not be provable.

Mr. GARDINER. I think any employer and union who have the honest intent to get along will get along in spite of Wagner Acts, Taft-Hartley Acts or any other act. I am very concerned that we do not have labor legislation which prejudices in a great many cases either one party or the other and that inflicts itself upon many of us, employer and labor union alike, who are getting along pretty well.

I want to say I think the extent to which cooperation is developing in this country is far beyond that which the average person on the street believes. We read the headlines of disputes, but we don't hear much about the many, many more situations in which civilization is protruding deeper and deeper into this relationship, and cooperation is developing.

Senator PEPPER. You say you cannot legislate industrial harmony between management and labor in this country?

Mr. GARDINER. That is right.

Senator PEPPER. Thank you very much.

Senator TAFT. Mr. Gardiner, while I don't suppose you would doubt the tremendous political furor about the Taft-Hartley law, has it in any way injured your relations with your employees?

Mr. GARDINER. You mean has the act?

Senator TAFT. Yes.

Mr. GARDINER. Not at all. I think they are too well established for any question of that.

Senator TAFT. Have your labor unions felt they were in any way discriminated against or weakened in their bargaining with your company?

Mr. GARDINER. In private conversation, no, but publicly they certainly give the same voice as is generally given by unions about the Taft-Hartley law.

Senator TAFT. Mr. Gardiner, you are in favor of providing for unfair labor practices on the part of both parties, as I understand it?

Mr. GARDINER. If you are going to enumerate them on the part of the employers, they should be enumerated on the part of the employees.

Senator TAFT. You are in favor of the Federal Mediation Service remaining independent and not as a part of the Department of Labor?

Mr. GARDINER. Absolutely.

Senator TAFT. You are in favor of some restraint on closed and union shops, probably less restraint on the union shop than in the Taft-Hartley law?

Mr. GARDINER. That is right.

Senator TAFT. What do you feel about the closed shop and the hiring hall?

Mr. GARDINER. I have had no experience with hiring halls. In principle I am very much opposed to the closed shop.

I believe the union shop is quite another matter.

Senator TAFT. You have mentioned this anticommunist oath. Of course you say there is nothing in the conscience of a Communist which would prevent him from swearing falsely. There is nothing in his conscience, but if he swears falsely and he is proved to be a Communist, he goes to jail for perjury. That is the ultimate remedy. If you can't prove he is a Communist, I don't know what restriction you can put on it. I don't see your objection as to the form of anticommunist oath provision.

Mr. GARDINER. I raised the question as to whether it accomplished the purpose, and I felt legislation might possibly be devised which would go further in protecting the democratic union from the infiltration of subversive elements.

Senator TAFT. I don't see what it can be, because final action is dependent on the threat of prosecution for perjury or for being a Communist. Whether you can prosecute a man for being a Communist is a little doubtful under the Constitution. So I haven't seen any alternative suggested.

Mr. GARDINER. My suggestion which I made, while it may not be complete, either, I don't pretend that it is, but if you liberalized the extent to which unions could exercise discipline in their own unions, I think I would rely pretty largely on union leadership to determine who

was subversive and who wasn't and probably would do something about it, but that should be safeguarded.

Senator TAFT. If you are going to have appeal to the Board, and the union fires a man because he is a Communist, he comes before the Board and claims that it is a fake. He says, "I am not a Communist." So you have to give him that right and somebody has to prove he is a Communist.

You finally get down to that necessity if you are going to do anything about it. I don't see what alternative remedy can be supplied.

Mr. GARDINER. Based on the fact that he is a Communist, they might expel him for reasons of irregularity growing out of that.

Senator TAFT. If they weren't good reasons, the Board would restore him to office.

Mr. GARDINER. I think they would be found to be good reasons.

Senator TAFT. You think in the case of every Communist you can find other reasons? You would have to invent them, I am afraid. Of course, obviously, you can't do that under your formula. I would be glad to listen to an alternative, but I haven't seen any that is better.

On the matter of threats to national health and safety, do you think in the last analysis there should be at least a right of temporary injunction? I want to ask you particularly about the New Jersey law.

Mr. GARDINER. As to the legalistic form which it should take, I am not a competent witness, because that is not my field, but I believe that I am reporting correctly the feeling of the people that in those instances whatever necessary power are required to control acts on the part of unions which are against the interests of the public health and welfare should be taken.

Senator TAFT. How is it worked in New Jersey: do you have the right to get injunctions against public utility strikes?

Mr. GARDINER. There is such a law in New Jersey. It has been tried several times, and I think has been reasonably effective. I don't think it has gone to a complete showdown. It has worked out.

Senator TAFT. Our law doesn't contemplate getting down to a complete showdown. It is intended to delay things and enable a settlement to be reached when apparently everything has broken down.

Do you feel that jurisdictional strikes and secondary boycotts are unpopular both with the members themselves and with the public?

Mr. GARDINER. That is right.

Senator TAFT. Do you think there should be an effective prohibition against such strikes?

Mr. GARDINER. That is right, there certainly should.

Senator TAFT. You have here a list which you say is a recent survey of employees regarding various sections of this law, giving the percentage of employees that prefer them. Can you refer us to that survey?

Mr. GARDINER. It is a survey of the Public Opinion Index by the Public Opinion Research Corp.

Senator TAFT. Princeton?

Mr. GARDINER. That is right.

Senator TAFT. That is all. Thank you.

The CHAIRMAN. That will be all, Mr. Gardiner.

(The prepared statement submitted by Mr. Gardiner is as follows:)

TESTIMONY ON NATIONAL LABOR RELATIONS ACT OF 1949 BY GLENN GARDINER, PRESIDENT, NEW JERSEY STATE CHAMBER OF COMMERCE; VICE PRESIDENT, FORSTMANN WOOLEN CO., PASSIAC, N. J.

Labor-management cooperation cannot be legislated. Good relations between management and labor can only be achieved through a sincere mutual desire on the part of both parties.

The wrong kind of labor law, however, can exert a disruptive influence, particularly if either labor or management feels that the law is prejudiced, either in its provisions or its administration.

The fact that laws cannot create good relations does not mean that there should be no laws regulating the conduct of management and labor in their relations each with the other. Labor law serves an important function in spelling out the rules of the game. Broadly speaking, labor law is a reflection of what the public believes should be the basic principles governing the relationship between management and labor. Both management and labor should look upon labor law as an indication of how the general public expects them to deal with each other.

For companies and unions who have learned how to work together in good faith, there is probably little need for any labor legislation. The law against murder is unnecessary for ninety-nine out of a hundred of our citizens. The person who does not bear murder in his heart is indifferent as to whether or not there is a law against murder. A large and growing proportion of employers and their employees appreciate that good relations depend more upon the spirit of mutual respect and cooperation than upon any technicalities of labor law.

It is not my purpose to present arguments for or against the Labor-Management Relations Act of 1947, or its predecessor, the National Labor Relations Act. Already there has been too much emotionalism involved in discussions of these labor laws. What I do propose is to present for your thoughtful consideration, some of the very important provisions which should be included in labor legislation now being discussed and recommended for passage by the Congress. In the brief time allotted to me, it is impossible to cover all aspects of the proposed legislation. The recommendations which I will make, therefore, are not presented as a complete exposition of all that the law should contain. There are numerous legalistic technicalities with which I will not deal. Others who have appeared before your committee, and others yet to appear, have and will address themselves to a great variety of important points. I will confine myself to recommending certain specific points which seem to me to be basic in the enactment of sound labor legislation at this time.

EQUALITY BEFORE THE LAW

Labor law must provide for equal and impartial treatment of both labor and management. If one football team were required to make 10 yards in 4 downs, while its opposing team were only required to make 8 yards in 4 downs, no one would regard the rules as fair, nor could we expect the game to be successful.

Similarly, any failure in a labor law to provide equal consideration for both labor and management is foredoomed to ultimate failure. Whatever justification there may have been for weighting the original Wagner Act, because of inequality in bargaining power, does not exist today. To be successful in operation, labor law must be recognized by both labor and management as giving equal consideration to the rights, responsibilities, obligations, and interests of both.

Labor legislation should be based upon the fundamental concept that there is a wide area of mutual interests shared by management and labor. If we legislate on the assumption that management and labor are inherently in two opposite and hostile camps, we will tend to perpetuate hostility, dispute, and controversy. On the other hand, if we recognize that the area of common interests is preponderantly greater than the normal area of difference between management and labor, we will construct labor laws which will help to bring management and labor closer together. In no way could we better serve the broad public good than to minimize labor-management conflict and to continuously broaden and strengthen industrial cooperation. The role of the statesman is to look with broad perspective on the needs of the entire public. In the enactment of legislation, Congress should be looking for ways to unite all groups for the common good.

Certainly, if impartiality in the provisions of the new law is to be achieved, recognition must be given to the fact that unfair labor practices should be defined

for unions as well as for companies. One of the surest ways to breed disrespect and hostility is for the provisions of the law to assume that one party can do no wrong and that the other party has the exclusive tendency to sin. Obviously, if certain unfair labor practices are defined for employers, there should also be a definition of unfair labor practices on the part of employee organizations.

No labor law can be deemed fair, if it inflicts undue restrictions on the freedom of speech as guaranteed to all citizens. The unfairness is even more flagrant if these restrictions are applied to one party and not to the other.

If a governmental agency is to function effectively as a conciliation or mediation service in industrial disputes, both parties must have implicit faith in the neutrality and impartiality of that agency. A realistic appraisal would dictate, therefore, that the Federal Conciliation and Mediation Service should not be attached to the Department of Labor. Whether justified or not, the firm belief of employers is that the Department of Labor is dedicated primarily to promoting the interests and welfare of labor. It was originally established for that purpose and has followed that purpose. All arguments to the contrary notwithstanding, there can be no denying the fact that employers believe that the Department of Labor is weighted in favor of labor. Unless Conciliation and Mediation is set up as an independent agency, employers will not regard it as an important agency and it will fall short of its potential effectiveness in the public interest.

PRESERVATION OF DEMOCRACY WITHIN UNIONS

It has become apparent that the more democratic a union is, the more susceptible it may be to infiltration by elements who would avail themselves of the privileges of democracy to undermine the leadership of the union, and to foment disharmony, confusion, and controversy between the union and the company. The insinuation of Communists into labor unions constitutes a grave threat to the leadership of our most democratic unions. There is serious question as to whether the requirement of labor leaders to take an oath that they are not Communists serves the purpose for which it is intended. There is nothing in the conscience of a Communist which would prevent him from swearing falsely. Merely requiring the anti-Communist oath from the union leader, therefore, constitutes little protection for the union or its leaders from the rank-and-file Communists who carry on their activities within the membership.

New labor legislation should permit union leadership sufficient power to discipline or expel members for other reasons than nonpayment of dues. Provisions should be made, of course, for an appeal on the part of any union member who feels he has been unjustly disciplined. If need be, this appeal can be made to the National Labor Relations Board.

The quality of democracy in labor unions is something to be preserved at all costs. Only thus can the basic freedom of the individual worker be properly protected.

With the growth and power of the labor movement, the public has come more and more to recognize that corresponding responsibilities rest upon labor unions. There is a preponderant feeling among employees themselves that labor laws should require unions to render financial reports. This is as much a protection for union leaders themselves as it is for the membership. Since the public through laws has guaranteed many rights and privileges for labor unions, there is a widespread feeling in the public that these in positions of leadership within unions should be held accountable to the membership, and one evidence of the competent and honest handling of that stewardship may be evidenced in the making of financial reports to those entitled to receive such information.

THREATS TO NATIONAL HEALTH AND SAFETY

One thing which the public is certain to demand in any labor management legislation is adequate and practical provision for dealing effectively in safeguarding the national health and safety. Nothing brings stronger reaction to labor disputes than a strike in public utilities or industries such as coal, communications, and transportation which may cause undue hardship and even the loss of life. No half-way provisions to meet threats to the national welfare or safety will be satisfactory.

JURISDICTIONAL STRIKES AND SECONDARY BOYCOTTS

Jurisdictional strikes and secondary boycotts are unpopular with rank-and-file members of the unions themselves. Too often union members are compelled to join in wasteful stoppages. There is no aspect of the labor-management problem

with which the public is more out of patience than jurisdictional strikes. The jurisdictional strike is usually looked upon as a conflict between labor leaders competing for power and expansion of their own membership at the expense of membership in other unions. When such disputes arise, individual workers, the public, and the employer are the ones who pay the bill and suffer the inconvenience. The public has about lost its patience with jurisdictional strikes. They will not be satisfied with any legislative provision which does not deal forthrightly with this problem.

Likewise, the secondary boycott which has been used to force a certain union onto workers, whether they wanted it or not has given rise to bitter dissatisfaction. The public will expect to see adequate provision for dealing with secondary boycotts in the new labor law.

STATUS OF FOREMAN

When we examine what foremen do, we recognize that their principal duties are managerial in character. They perform functions which the general manager would personally carry out if he could divide himself into enough persons to be at a score of places at one time, and multiply his intimate knowledge of details sufficiently to make accurate decisions on the multitude of questions which must be answered every working hour of the day or night.

Since it is physically and mentally impossible for the chief executive of a company to thus distribute himself, subordinate executives and foremen act in his place in the management of departments, subdivisions, and areas of the business. He delegates to them the responsibility and authority to function for him in their respective jurisdictions. In the performance of their supervisory duties, such functions as the following are included in the activities of foremen:

Selection and hiring of employees	Maintaining the quality of work
Assignment of men to jobs	Conserving material and supplies
Instructing men in their job duties	Administering the wage plan
Imparting a knowledge of company policies and regulations	Determining the work load for employees
Planning and laying out the work	Preventing accidents and work injuries
Improving job methods	Enforcing rules and standards
Getting from employees an hour's work for an hour's pay	Helping to formulate regulations and policies
Controlling the cost items in getting work done	Maintaining discipline among workers
	Adjusting grievances

The managerial character of a foreman's job becomes more apparent when we think of him as a manager of a business within a business. In his department he deals, directly or indirectly, with all the elements and problems which confront the manager of an independent business. In his department he is responsible for a considerable investment in equipment, work space, material, and labor.

The foreman must make decisions which may result in profit or loss in the operations he supervises. His judgment may affect, not alone his own department, but the entire business. His ability to develop an efficient, cooperative work force will determine the success or failure of this business within a business.

The nature of a foreman's functions resembles that of the general manager of the company. The difference is chiefly in scope. The general manager is responsible for the company's entire investment in plant, equipment, material, and labor. The foreman's responsibility for these same factors is limited to his own department or section. The general manager gets his results through the executive and staff personnel who report to him. The foreman gets his results through the worker personnel who report to him.

In view of the managerial character of the foreman's function, it is essential that any labor legislation, affecting management-labor relations should recognize that foremen are a part of management and should not be included within the scope of legislative provisions affecting the status of rank-and-file employees. Throughout the life of American industry, the foreman has been a part of management and the direct representative of management at its initial point of contact with rank-and-file workers. This has been the traditional position of the foreman.

The opinion of the National Labor Relations Board in the *Maryland Drydock* case (49 N. L. R. B. 733), contains the following:

"We are now persuaded that the benefits which supervisory employees might achieve through being certified as collective-bargaining units, would be outweighed, not only by the dangers inherent in the commingling of management and

employees' functions but also in its possible restrictive effect upon the organizational freedom of rank-and-file employees."

Again, in the case of *Packard Motor Car Company v. National Labor Relations Board* (330 U. S. 485), Justice Douglas, in his dissenting opinion, on page 496, states:

"It (Wagner Act) put in the employer category all those who acted for management, not only in formulating but also in executing its labor policies. Foremost among the latter were foremen. Trade-union history shows that foremen were the arms and legs of management in executing labor policies. In industrial conflicts, they were allied with management. Management, indeed, commonly acted through them in the unfair labor practices which the act condemns. When we upheld the imposition of the sanctions of the act against management, we frequently relied on the acts of foremen through whom management expressed its hostility to trade-unionism."

The Labor-Management Relations Act of 1947, section 2 (3) defines the word "employee" and provides that the term "shall not include * * * any individual employed as a supervisor." Section 2 (11) defines the term supervisor in the following language:

"The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

Section 14 of the act provides as follows:

"Nothing herein shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer, subject to this Act, shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining."

It is to be noted that this does not forbid the unionization of foremen for collective-bargaining purposes. This is carefully spelled out in section 14 quoted above. What the act does do is to distinguish between supervisors as therein defined as a part of management, in contrast to rank and file workers, and to provide that supervisors shall not be entitled to the benefits and privileges of the act.

It is recommended that the provisions of the Labor-Management Relations Act of 1947, relating to supervisors, be retained and made a part of any new labor law for the following reasons:

1. Foremen are a part of management and their own best interests are served by retaining this relationship rather than attempting to operate through collective bargaining.

2. Foremen are a part of management, and to confer on them the status and standing of rank-and-file workers before the National Labor Relations Board is detrimental to the best interests of rank-and-file workers, other levels of management, and the consumer public.

3. The overwhelming majority of supervisory employees in American industry have demonstrated no desire for association into unions for collective-bargaining purposes, but on the contrary, have clearly shown their desire to be and remain on the management team.

WHAT EMPLOYEES THINK

Some very significant reactions of employees, both white-collar and manual, have been revealed in a broad survey completed shortly before these hearings on Senate bill 249 began. In this survey, a representative cross section of employees reacted as follows:

In favor of a law to—	Percent
Require union financial reports.....	80
Prohibit Communist union leaders.....	79
Delay strikes in public service industries.....	76
Allow union shop only with majority vote.....	75
Allow companies to sue unions.....	73
Require a 60-day cooling-off period.....	71
Outlaw closed shop.....	68
Allow check-off only with workers' consent.....	56
Allow freedom of speech for employers.....	55
Prohibit union political contributions.....	40

The foregoing reactions indicate the feelings of employees themselves relative to what labor law should provide.

Unless the desires of the people are recognized and incorporated in the new labor law now being considered, there is little possibility of permanence in the law.

In conclusion, I desire to emphasize the need for enacting labor legislation designed to unify labor and management—not to separate them into warring camps. The growth of labor unions during the last 15 years has definitely established the fact that unions are here to stay. This fact is accepted by the preponderant majority of the public and of members of management. The American people believe in unions but want proper checks on their power.

It would be no favor to unions if labor legislation were to be passed which permitted that minority of labor leaders who might take advantage and indulge in excessive use of power in a manner to bring disfavor with the public upon all of organized labor. That happened in the past and will happen again, unless wisdom and statesmanship in the Congress prevail at this time. The new labor law should in no way hamper the attainment of the legitimate aspirations of labor. At the same time, the law, finally passed, should impress management, labor, and the public with its fairness.

Senator NEELY. Mr. Chairman, will you indulge me for a moment? During a colloquy between Senator Donnell and myself regarding the fines that were imposed upon Mr. Lewis and the United Mine Workers, the Senator read from a decision of the Supreme Court.

I now have the facts about that matter. I thought that I could not be mistaken in my belief that the proceeding against Mr. Lewis was under the Taft-Hartley Act.

Senator Donnell was correct about the first proceeding being under the Smith-Connally Act, but the second was exclusively under the Taft-Hartley law.

In the first case the United Mine Workers were fined by the lower court 3½ million dollars and Mr. Lewis was fined \$10,000. The Supreme Court reduced the fine against the union to \$700,000 and sustained the fine of \$10,000 against Mr. Lewis.

In the second case, under the Taft-Hartley law the United Mine Workers were fined \$1,400,000—twice as much as they had to pay under the first decision, and Mr. Lewis' fine was raised from \$10,000 to \$20,000. This \$1,400,000 fine and the \$20,000 fine were imposed in a proceeding that originated and was prosecuted exclusively under the Taft-Hartley law.

The CHAIRMAN. Very well. The hearing will stand in recess until 2:30 this afternoon.

(Whereupon, at 12:30 p. m., a recess was taken until 2:30 p. m., of the same day.)

AFTERNOON SESSION

The CHAIRMAN. Mr. Chandler. Is Mr. Chandler here?

Mr. CHANDLER. Yes.

The CHAIRMAN. Mr. Chandler, for the record, will you state your name and anything else about yourself that you want to have appear in the record, and whom you represent.

STATEMENT OF E. LAWRENCE CHANDLER, ASSISTANT SECRETARY, AMERICAN SOCIETY OF CIVIL ENGINEERS, REPRESENTING PANEL OF PROFESSIONAL ENGINEERING SOCIETIES

Mr. CHANDLER. My name is E. Lawrence Chandler. I am assistant secretary of the American Society of Civil Engineers.

I appear here today as the chairman of the Panel of Representatives of Engineering Societies.

Members were present last week, but because of the complications that have arisen, they are not here today, all of them.

The several societies represented by the members of the panel are national professional organizations, having a total membership of well over 100,000 individuals, with members distributed throughout all of the States of the Union, and the Territories.

Our members include both employers and employees. They are engaged in a very wide variety of fields, including Federal, State, and local government, industrial organizations, private engineering firms, and the like.

I should like to add that although the American Chemical Society did not participate in the preparation of this statement which I would like to have filed for the record, the statement does have the endorsement of the American Chemical Society, which is an organization of nearly 60,000 members, including chemists and chemical engineers in all fields of chemical activities.

I have here a prepared statement which is too long to read in the time allotted. With your permission, I would like to file this for the record.

The CHAIRMAN. It will be included in the record after your remarks.

Mr. CHANDLER. If you will permit me, I would like to read some of the more important paragraphs and make some comments on them, which I think I can do in 10 minutes.

Our purpose in presenting this statement to you may be expressed very simply: We find nothing in S. 249 directed toward protecting the collective-bargaining rights as such, and we recommend that the National Labor Relations Act of 1949, in whatever form the Congress may determine to be appropriate, shall carry the provisions affecting professional employees which have been established for the first time in the existing law.

We refer specifically to section 2 (12) and to section 9 (b) (1) of Public Law 101 of the Eightieth Congress.

Section 2 (12), which is a definition of the term "professional employee" states as follows—I think there is no point in my reading the definition to you.

The CHAIRMAN. There is this point: Is the definition necessary for your organization to be recognized in collective bargaining under the Wagner Act? That is the only point that I see. If you are organized as a union, I do not think that you need any more definition than that, do you?

Mr. CHANDLER. I might say, Senator, that neither the Engineers Joint Council nor any of the societies here represented are or can be organized as labor unions or in support of a labor union, professional or otherwise.

This definition is one which has worked very well, and while, of course, I cannot speak at all for the National Labor Relations Board—

The CHAIRMAN. Could you not be recognized for bargaining purposes without being a formal union?

Mr. CHANDLER. That is the whole crux of the situation, Mr. Chairman, and that is why we are here. There was so much difficulty under

the Wagner Act, and I would like to comment on some phases of those difficulties.

The CHAIRMAN. That is all right.

Mr. CHANDLER. A little bit later on.

The CHAIRMAN. That is the one big point, is it not? That is why I am asking the question.

Mr. CHANDLER. And the next clause, which I will read, and that really is the summation of our case.

To the best of my knowledge, this definition of "professional employee" has worked out very satisfactorily.

Now section 9 deals with the representatives and elections. In subparagraph (b) of that section it is stated that:

The Board shall decide in each case whether, in order to assure the employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof—

and this is the clause that is of extreme importance to professional employees—

Provided, That the Board shall not (1) decide that any unit is appropriate for such purposes if such unit includes professional employees and employees who are not professional employees unless a majority of such professional employees vote for inclusion in such unit.

Now, prior to the enactment of the provision just cited, situations continuously arose where the best interests of professional employees, nonprofessional employees, and employers alike were not well served.

Confusion and conflict with organizations of nonprofessional employees developed. We do not believe those developments to have been in accord with the intentions of Congress, and, certainly, they were not in the interest of promoting progressive, cooperative relations between employer and employee, nor for the best good of the country.

Under the present law, with statutory protection of the rights of professional employees, there has been a distinct trend away from such unsatisfactory conditions and it is fair to say that we are well on the way toward complete abolishment of the confusion and distress that existed among professional employees under the earlier law.

In view of the rapid technological developments in American industry, most large-scale industrial enterprises today employ large staffs of professional engineers, architects, and scientists on a full-time basis.

As a result, these professionally trained and professionally minded employees come within the coverage of the labor laws. In a lesser degree the same trend has been occurring in the professions of law and medicine, for it is common to find banking, insurance, and manufacturing corporations which have legal departments and medical departments of their own.

I think quite obviously professional service, even though rendered by an employee, is predominantly intellectual and varied in character. Constant demand exists for originality and creative thought in the solution of problems presented with each new undertaking.

Technical skill is only a part of the equipment of a professional person. There is no yardstick by which creative ability can be measured.

Individual talents vary and every person possessing a professional attitude constantly strives to expand his knowledge and improve his

abilities in his chosen field to the end of personal excellence, personal advancement, and the betterment of his profession.

Strict regimentation of professional employees is incompatible with the maintenance of true professional standards.

The productive output of the professional man is largely that of his mind, while that of the nonprofessional depends largely on his manual skill and dexterity.

No law by which professional employees and those engaged in routine mental, mechanical, and physical work must conform to the same regulatory pattern is a just law. It is unjust alike to the laborer, to the nonprofessional white-collar worker, to the professional man, to their employers, and to society.

Now in the prepared statement we have cited a number of cases which we think furnish quite satisfactory evidence as to the nature of the heterogeneous groups in which professional employees found themselves, and the difficulties that arose in trying to extricate themselves from those difficulties. I think it is not necessary to cite them to you now.

The situation was very confused and very distressing, and the solution of the entire complex situation was found to be just about as simple as the problem was entangled. The heart of the solution is in the two sections of the present Labor-Management Relations Act of 1947 previously quoted.

At the time of the enactment of those provisions, and immediately thereafter, there were some misapprehensions as to what the results would be of such provisions in the labor laws. There was fear that employers would gain definite advantage over professional employees, with collective bargaining rights of employees being destroyed or at least diminished.

But although these professional provisions have been in force for a relatively short period, there have been Board decisions in sufficient number to demonstrate conclusively that the professional sections are successful in operation, and have not been abused to the detriment of labor unions. They have brought highly significant benefits to professional groups in marked improvements in management-employee relations.

We have cited here also a fair number of cases, no attempt being made to cite all the cases that have arisen naturally, but a number of cases indicating the benefits that have accrued to professional employees, indicating that the Board quite evidently has been conscientious in its application of the definition of "professional employee," being careful to see that the mere fact that claiming professionalism does not permit the withdrawal from an established labor union nor the creation of a separate bargaining unit on the part of those who might desire to come under these provisions.

We submit that developments to date have demonstrated the need for and the desire of the professional employee to take advantage of the provisions of the present law which are directed toward affording them the freedom of association and choice so properly proclaimed in the old Wagner Act but which so often proved, in fact, to be but an empty promise to them.

During the relatively brief time since the enactment of the Management-Labor Relations Act of 1947 material advantages have been made

in the promotion of harmonious relations between management and professional employees.

The trend is toward minimizing the costly and disruptive turmoil that previously existed in professional ranks and the resulting loss of productive service and effective industrial relations.

We are not aware of anything about the existing professional provisions of the law to which exception can be taken by anyone who has at heart the best interests of the country and of this large group of employees who are so vitally important to advancement of the general welfare.

We respectfully request your committee to include in its recommendations to the Congress a continuation of the legislative provisions contained in section 2 (12), and in section 9 (b) (1) of the present labor-management relations law.

I think that is all I will say in the way of a preliminary statement, Mr. Chairman.

(Mr. Chandler submitted the following prepared statement:)

STATEMENT TO SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE BY A PANEL OF REPRESENTATIVES OF PROFESSIONAL ENGINEERING SOCIETIES RELATIVE TO S. 249, THE NATIONAL LABOR RELATIONS ACT OF 1949

The several engineering societies represented on this panel are national professional organizations having a combined membership of well over 100,000 individual members distributed throughout all of the States and Territories of the Nation. Our members include both employers and employees and they are engaged in a wide variety of fields, including Federal, State, and local governments, industrial organizations and private engineering firms. Due to the character and widespread distribution of our membership, we believe we are in a position to speak with a well-balanced and unbiased viewpoint regarding those phases of labor legislation which particularly affect professional employees.

Our purpose in presenting this statement to you may be expressed very simply. We find nothing in S. 249 directed toward protecting the collective-bargaining rights of professional employees as such, and recommend that the National Labor Relations Act of 1949, in whatever form the Congress may determine to be appropriate, shall carry the provisions affecting professional employees which have been established for the first time in the existing law. We refer specifically to section 2 (12) and to section 9 (b) (1) of Public Law 101, Eightieth Congress.

Section 2 (12), which is a definition of the term "professional employee," states that—

"(12) The term 'professional employee' means—

"(a) Any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

"(b) Any employee who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a)."

Section 9 deals with representatives and elections. In subparagraph (b) of that section it is stated that—

"(b) The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof: *Provided*, That the Board shall

not (1) decide that any unit is appropriate for such purposes if such unit includes both professional employees and employees who are not professional employees unless a majority of such professional employees vote for inclusion in such unit."

These provisions are tremendously important to professional employees. Activities governed by them have been such as to contribute to the betterment of relations between management and employees in accordance with the stated objective of the country's labor laws.

The fundamental purpose of according special recognition to professional employees, as distinguished from nonprofessional employees, is to increase effective application of the law. The philosophy of professional separation in collective-bargaining determinations should not be confused with proposals to restrict the application of the law to smaller numbers of employees or to give employers undue advantage in the professional field.

Prior to enactment of the provisions cited, situations continually arose where the best interests of professional employees, nonprofessional employees and employers alike were not well served. Confusion and conflict with organizations of nonprofessional employees developed. We do not believe those developments to have been in accord with the intentions of Congress and certainly they were not in the interest of promoting progressive, cooperative relations between employer and employee, nor for the best good of the country. Under the present law, with statutory protection of the rights of professional employees, there has been a distinct trend away from such unsatisfactory conditions and it is fair to say that we are well on the way toward complete abolishment of the confusion and distress that existed among professional employees under the earlier law.

In view of the rapid technological developments in American industry, most large-scale industrial enterprises today employ large staffs of professional engineers, architects, and scientists on a full-time basis. As a result, these professionally trained and professionally minded employees come within the coverage of the labor laws. In a lesser degree, the same trend has been occurring in the professions of law and medicine, for it is common to find banking, insurance, and manufacturing corporations which have legal departments and medical departments of their own.

The National Labor Relations Act of 1935 was enacted primarily for the benefit of the unskilled and unorganized worker in mass-production industry. Cognizance was taken of the status which the skilled craftsman had attained and special provisions were contained for recognizing craft units. Unfortunately, no corresponding recognition was accorded the special problems of the professional employee.

A fundamental difficulty with the Wagner Act, as it affected professional employees, was that no distinction was made between professional and nonprofessional employees in spite of the facts that their viewpoints and abilities are inherently different and that their conditions of employment cannot be made subject to a common standard.

This statement is a simple recognition of fact. It does not imply any suggestion of placing one segment of the employment force in a preferred position. It is for the best interests of all in the collective-bargaining field to recognize the essential differences.

Professional service, even though rendered by an employee, is predominantly intellectual and varied in character. Constant demand exists for originality and creative thought in the solution of problems presented with each new undertaking. Technical skill is only a part of the equipment of a professional person. There is no yardstick by which creative ability can be measured. Individual talents vary and every person possessing a professional attitude constantly strives to expand his knowledge and improve his abilities in his chosen field to the end of personal excellence, personal advancement, and the betterment of his profession. Strict regimentation of professional employees is incompatible with the maintenance of true professional standards.

With regard to conditions of employment, consider the typical situation of a professional employee in a large industrial plant. The duties of one engaged in the development of industrial processes or the design of equipment may be such as to demand continuous and prolonged application of his individual services. From the very nature of those services, the employee must be granted prerogatives such as access to various portions of the plant at all hours, the right to work with continuing shifts as occasion may demand, latitude as to hours and location of employment, and freedom of judgment as to the best method of carrying out his special assignment. Obviously, such working conditions cannot be set forth in the usual labor union type of contract.

To attempt application of the same standard of measurement for services of professional men and nonprofessional men is not in the public interest. The output of professional employees cannot be standardized as can that of manual and skilled labor. It cannot be measured in terms such as the number of brick a man should lay in a given number of hours, the number of cubic yards of dirt that should be moved, the square yards of painting, the amount of type to be set, bolts to be placed, feet of conduit to be laid, or in terms of any other similar unit.

The productive output of the professional man is largely that of his mind, while that of the nonprofessional depends largely on his manual skill and dexterity. No law by which professional employees and those engaged in routine, mental, mechanical and physical work must conform to the same regulatory pattern is a just law. It is unjust alike to the laborer, to the nonprofessional white-collar worker, to the professional man, to their employers, and to society.

In spite of all this, prior to enactment of the present law, professional employees often were included against their will in heterogeneous groups and compelled to accept representation which they did not desire in collective-bargaining procedure. The results were most unsatisfactory. There was serious effect on the morale of professional employees and generally poor relationships developed between those employees and labor unions and employers.

In industrial undertakings, professional employees always are far outnumbered by the production and clerical workers. Even though the vote of the professional employees were unanimous against proposed representation it was of no avail. By sheer numerical force the professional employees were denied effective representation.

We accept the principle of collective bargaining as a right of employees, professional and nonprofessional, but we firmly believe that there should not be any submergence of the desires and interests of professional employees. The background, education, training and work interests of professional employees and nonprofessional employees are inherently divergent. It is futile to expect that a forced grouping of the professional and nonprofessional employees in any plant or organization could possibly form an "appropriate bargaining unit." Under the old law and its administration, such plainly inappropriate groupings were made and, by fiat, were declared appropriate. We do not consider that to have been the intent of Congress.

Let us cite a few early cases to illustrate actual developments under that unfortunate situation. No attempt is made to cite all such cases. We think that a few are sufficient to demonstrate the need for correction.

One of the first cases decided by the NLRB was *Matter of Chrysler Corporation* (1 NLRB 164), wherein, in referring to design engineers, the Board said: "It is true that this work requires a considerable degree of skill and more or less imagination. There is nothing, however, peculiarly personal in the relationship between the company and its many hundreds of engineers. They are in no sense executives. The engineers have need of organized strength *in common with all wage earners*." [Emphasis supplied.]

In *Kennecott Copper Corporation* (40 NLRB 986), the Board determined the following category for an appropriate unit: "Employees of the office department at Santa Rita mine and employees of the Hurley miscellaneous clerical department, *chemists included*." [Emphasis supplied.]

In *Black and Decker Electric Company* (47 NLRB 726), the following unit was prescribed: "Employees in the accounting, cashiers, pay roll, cost, sales, service, production, material control, purchasing, personnel, stores, receiving, shipping, experimental, *mechanical engineering, and tool and processing engineering departments*." [Emphasis supplied.]

In *Permanente Metals Corporation* (45 NLRB 931), the Board found as appropriate a unit "including *professional chemists*, gas analysts, stenographers, and sample boys." [Emphasis supplied.]

There are a number of cases in which no distinction was made between purely technical employees and truly professional employees. The two are far from identical.

The difficulties encountered by professional employees in maintaining autonomy and preventing a forced grouping into heterogeneous units is no better illustrated than in the *Shell Development Company* case (38 NLRB 192) decided in January 1942. It was only through an all-out effort on the part of the professional chemists involved and extensive litigation backed by the financial support of the American Chemical Society that the professional employees were able to escape compulsory inclusion in a bargaining unit which included janitors, roustabouts, window washers, and the like. It is absurd to think that the professional

viewpoints could be properly represented as a result of including professional employees in such a group.

This type of dissension extended throughout the administration of the National Labor Relations Act. In only a few cases did professional employees succeed in gaining recognition, and then only after protracted and costly controversy, entailing litigation and appeal and fundamental disturbance of employer-employee relationships.

The early cases also illustrate the difficulty which confronted the Board in attempting to apply standards for classifying professional employees. The original act contained nothing in the way of definition and the various concepts of professionalism naturally had no firm basis. Without a statutory guide, the application of standards for determining professional status wavered according to the individual concepts of the Board member or the examiner and left the professional public in a constant state of uncertainty.

The solution of this entire complex situation was found to be as simple as the problem was entangled. The heart of the solution is in the two sections of the present Labor Management Relations Act, 1947, previously quoted.

It should be stressed that section 9 (b) (1) takes nothing away from the professional employee. Rather it protects his rights in the collective-bargaining field, and permits exercise of those rights on a professional basis. Under this provision, professional employees may engage in collective bargaining and in many cases have done so. They may have their own bargaining unit restricted to professional employees, or they may be a part of a larger over-all bargaining unit including nonprofessionals if that is their desire.

The definition of professional employee is basically not a new one; it is based, with minor changes, on the definition of professional employee currently in force under the Fair Labor Standards Act. This definition has stood the test of time and has been found in the administration of the Fair Labor Standards Act and of the current labor act to be fair and practical. The inclusion of subsection (b) to the definition is designed to apply the same general standards to young men who have completed the basic professional education and are in the process of acquiring the necessary experience to qualify for full professional status, i. e., internes in the medical field, and engineers-in-training in the engineering field, and the like.

It is significant that the legislative history of the present labor law indicates very little discussion and debate on the principle of professional separation. This is accounted for by the fact that the rights of professional employees are being fully protected and by the evident justice of the principle. The few objections raised have been technical in nature and are quite easily met by examination of cases decided by the NLRB involving professional employees.

Although the professional provisions have been in force only a little over 1 year, there have been Board decisions in sufficient number to demonstrate conclusively that the professional sections are successful in application and have not been abused to the detriment of labor unions. They have brought highly significant benefits to professional groups and marked improvement in management-employee relations.

Any misapprehension that the professional sections would be used to deny collective bargaining rights to professional employees was dispelled by the Board in the *Lumberman's Mutual Casualty Co. of Chicago* case (75 NLRB 1132), wherein the Board rejected the argument of the employer that a number of attorneys involved were not employees within the meaning of the act because they were professional employees. The Board's opinion clearly stated the opposite principle to be true, stating: We are of the opinion, therefore, that the mere fact that the attorneys are professional personnel does not preclude them from being employees within the meaning of the act, and entitled to its benefits, and we reject the employer's contention in this respect." Later in the opinion the Board stated: "That the attorneys have a statutory right to self-organization cannot be denied. If doubt ever existed, it has been removed by the * * * act * * * which defines 'professional employees'."

It is significant that the Board acknowledges in this decision the element of doubt as to appropriate classification of professional employees in the past and definitely indicates that the collective bargaining status of the professional employees has been enhanced by the professional sections of the existing law.

To the same effect is *Worthington Pump and Machinery Corp.* case (75 NLRB 80), in which the Board states: "* * * the statute itself refutes the respondent's contention that employees like the ones in question are to be deprived of employee status because of the nature of their duties * * *."

These cases effectively dispose of any contention that the collective bargaining rights of professional employees will be destroyed or diminished. In fact, the Board now has ample statutory authority to confirm its position. Likewise disposed of, is the misconception that the provisions will operate to the undue advantage of employers. The above cases clearly indicate that although the employers opposed collective bargaining rights for the professional employees, the Board had no difficulty in applying the act to support such rights.

It is recognized that the professional sections could be misapplied and misused if there were loose application of the professional definition so as to cover those who are not truly professional employees. A study of the cases discloses that this has not occurred. The Board has been properly strict in applying the professional definition. There is no reason to assume that the Board will not continue to apply the definition with due care and caution.

In the *Jersey Publishing Company* case (76 NLRB 70), the Board declined to grant professional separation to editorial employees. This opinion was confirmed in *Free Press Company* case (76 NLRB 152) which also involved a claim for professional status for editorial employees.

That the Board has been careful not to stretch the definition of "professional employee" to cover classes of employment not intended is demonstrated in *Clayton Mark & Company* (76 NLRB 33), wherein the Board said: "It is equally clear, in our opinion, that the amended act and its legislative history do not authorize the classification of inspectors as 'professional employees' merely because, by the exercise of individual judgment and discretion, they may sometimes affect the earnings of production employees."

Starrett Brothers & Eken, Inc. (77 NLRB 37), illustrates that the Board will not include technical employees or employees with professional titles without proper proof of true professional qualification. In that case the Board declined professional separation to employees classified as chief of surveying party, instrument man, front chairman, rear chairman, computer, estimator, draftsman, inspector, mechanical engineer and assistant mechanical engineer.

In *George A. Fuller Company* (78 NLRB 34), the decision in *Starrett Brothers & Eken, Inc.*, case was confirmed and professional status was denied to members of a construction surveying party.

In *Southern Bell Telephone and Telegraph Company, Inc.* (78 NLRB 100), the Board found the engineers, junior engineers, and student engineers to be qualified under the professional definition but excluded the engineering fieldman from that classification as lacking the professional qualifications.

In *Automatic Electric Company* (78 NLRB 146), the accountants did not come within the Board's application of the professional definition and they were denied treatment as professional employees. To the same effect is the decision in *American Window Glass Company* (77 NLRB 162), wherein accounting employees were found not to be professional.

That the Board is not impressed by a professional title per se is again illustrated in *Inter-Mountain Telephone Company* (79 NLRB 96), wherein three employees with the title of "engineer" were found to lack the necessary professional qualifications to meet the definition. Also excluded in the same case was the accountant.

Artistic or literary talent alone is not sufficient to warrant a finding of professional qualification for the purposes of the act. In *West Central Broadcasting Company* (77 NLRB 56), the Board denied professional separation to the radio announcers, singers, and continuity writers. An attempt to bring auto and Diesel mechanics into the professional classification was rejected by the Board in *Ferguson-Steele Motor Company* (76 NLRB 159).

A striking illustration of the fact that an employee claimed to be professional must be actually engaged in professional work as distinguished from merely having professional qualifications, is the decision in *Charles Eneu Johnson & Co.* (77 NLRB 3), wherein a professional chemist by training was performing maintenance electrical work and, at times unskilled labor. The Board properly placed him in the appropriate unit as a maintenance employee.

Enough has been cited in this line of cases to demonstrate that there has been no abuse of the professional sections of the law. The Board has had a clear definition to guide it and has acted within that definition as indicated above. It is apparent that the employees involved must be truly professional employees, on the basis of appropriate education, experience, training, and duties, to come within the strict limitations of the professional test.

The professional provisions have not operated to the advantage of the employer or to the disadvantage of nonprofessional labor organizations. The rights

of the professional employees have been fully protected and their actual bargaining strength greatly enhanced. As distinguished from "splinterization," the professional sections have instituted a proper and workable solution to the problem posed by employee organizations containing divergent elements.

We submit that developments to date have demonstrated the need for, and the desire of professional employees to take advantage of, the provisions of the present law which are directed toward affording them the freedom of association and choice so properly proclaimed in the old Wagner Act but which so often proved in fact to be but an empty promise to them.

During the relatively brief time since enactment of the Labor-Management Relations Act, 1947, material advances have been made in the promotion of harmonious relations between management and professional employees. The trend is toward minimizing the costly and disruptive turmoil that previously existed in professional ranks and the resulting loss of productive service and effective industrial relations. We are not aware of anything about the existing professional provisions of the law to which exception can be taken by anyone who has at heart the best interest of the country and of this large group of employees who are so vitally important to advancement of the general welfare.

We respectfully request your committee to include in its recommendations to the Congress a continuation of the legislative provisions contained in section 2 (12) and in section 9 (b) (1) of the present labor-management relations law.

Respectfully submitted,

Engineers Joint Council, by E. Lawrence Chandler, assistant secretary, American Society of Civil Engineers, chairman of the panel; American Institute of Chemical Engineers, by W. I. Burt, vice president, B. F. Goodrich Chemical Co., Cleveland, Ohio; American Institute of Electrical Engineers, by E. H. Baucker, application engineer, General Electric Co., Schenectady, N. Y.; American Institute of Mining and Metallurgical Engineers, by Francis B. Foley, superintendent of research, The Midvale Co., Philadelphia, Pa.; American Society for Engineering Education, by Harry S. Rogers, president, Brooklyn Polytechnic Institute, Brooklyn, N. Y.; American Society of Civil Engineers, by Gail A. Hathaway, special assistant to the Chief of Engineers, War Department, Washington, D. C.; American Society of Mechanical Engineers, by William F. Ryan, engineering manager, Stone & Webster Engineering Corp., Boston, Mass.; National Society of Professional Engineers, by J. S. Kennedy, Portland Cement Association, Cleveland, Ohio.

The CHAIRMAN. Are there questions?

Senator MURRAY. No questions.

The CHAIRMAN. Senator Hill.

Senator HILL. No questions.

The CHAIRMAN. Senator Douglas.

Senator DOUGLAS. You want to be separated, therefore, from clerical employees?

Mr. CHANDLER. Yes, that is correct, Senator Douglas. We would like to have these provisions maintained exactly as they are.

The definition of a professional employee appears to be a sound one.

I made a statement previously—I am not sure whether you were here or not—I think that the Board, I am not speaking of any authority from the Board, but I think the National Labor Relations Board has welcomed the definition of this sort to enable it to distinguish between professional employees and nonprofessional employees.

Senator DOUGLAS. Were there many specific cases in which you felt that the Board found the appropriate bargaining unit disadvantageously to you?

Mr. CHANDLER. Well there was quite a long list of them, Senator; some of them are cited in the prepared statement. I will not bother to go all through them. Perhaps the most critical ones are not cited here. Last week we had a young man, Mr. Samuel Gilman here, who had

been an employee of the Westinghouse Co. at Bloomfield, N. J., and he would have been glad to have told his story. The best I can do, I think, and in which you will be interested—the best I can do is to give you some of the high lights of it.

A group of professional employees, chiefly engineers—of course, you recognize I speak from the engineering point of view—in the Westinghouse plant at Bloomfield, became entangled with a CIO union, and the situation became most distressing.

They were compelled to go on strike, a strike with which they were not in sympathy. They wanted to go back to work. Management did not know what to tell them about crossing picket lines and what-not; some of them, at least, and their families, were threatened with reprisals, and it was really a serious situation.

They appealed to the Labor Relations Board—I am quite sure that was in 1946—for the privilege of withdrawing from that group and forming a bargaining unit of their own; and the proceedings continued for a long time, and finally they were denied that privilege. I believe the basis was that the other unit had been serving as a representative of theirs, and that no change could be made.

They renewed their negotiations under the existing law, and again, after a very considerable period of negotiation and litigation, they did finally succeed in getting established for themselves last fall—that was in 1948—a union of their own, a bargaining unit in that plant.

Under the old law, apparently, they had no recourse; they were unable to get away from the group which they did not think satisfactorily represented their interests.

Senator DOUGLAS. Now this may be a difficult question to answer, an easy question to ask but a difficult one to answer: Is your chief objection to affiliation with either a clerical or a union of manual workers or both the fact that you believe that professional employees, taken by themselves, can drive a better collective bargain with the employer, or is it a psychological feeling that professional employees are so distinct from these other groups they should not be organically affiliated with them?

Mr. CHANDLER. I would place much greater emphasis on the second point you made. The viewpoints of the two are so different, and the conditions under which they can render best service are so different. We have cited briefly in this statement, for instance, the matter of working conditions. Take a person who is engaged in the developing of new industrial processes in an industrial organization, or, perhaps, the design of new equipment. Such a man just cannot be confined to limited hours of work. He might conceivably work for 24 hours consecutively. He might need to have access to different parts of the plant at all sorts of hours.

You might find that he might work to advantage at home for a day or two, and conditions of that sort can hardly be written into the normal type of labor-union contract, and it is the entirely different point of view and different approach to their rendering of their services that makes it apparently so impossible to have a heterogeneous group which will be satisfactory to them.

Of course, there is nothing in these provisions that prevents a group of professional employees, if they find they do have common interests with a labor group, from voting to unite with them in a heterogeneous bargaining unit.

Senator DOUGLAS. Have there been some professional groups that have so voted?

Mr. CHANDLER. I am not aware of it, but I think very likely there can be such cases developed.

Senator DOUGLAS. That is all.

The CHAIRMAN. The Chair will have to apologize to the committee. He was not informed about a change by the subcommittee, that is, trading off time. We should have started at 2:30 with Mr. Harvey Brown.

It seems to me, though, that this witness, if there are some questions——

Senator TAFT. I have no questions, Mr. Chairman.

Senator MORSE. I have no questions.

The CHAIRMAN. Thank you, Mr. Chandler.

Mr. CHANDLER. Thank you.

The CHAIRMAN. There shall be self-inflicted punishment on myself. I will wait until 10 minutes to 6 if you wish to continue with Mr. Brown.

Mr. William Guffey will have to go over until some later time. If Mr. Brown is through, why, I do not know what you are going to do tomorrow morning with respect to this arrangement.

Senator MORSE. Mr. Chairman, the idea was that, if the Democrats should finish with their witness this afternoon, and we have some witnesses that would have been heard had there not been cross-examination of some of our witnesses—take Mr. Guffey, for example, we would put him on later this afternoon.

Senator TAFT. Convening at 5:30.

The CHAIRMAN. The committee should be alerted to the extent that we stayed in rather late this morning.

All right, Mr. Brown, please.

Mr. Brown, for the record, will you state your name and whom you represent, and anything that you want to have appear in the record?

STATEMENT OF HARVEY W. BROWN, INTERNATIONAL PRESIDENT, INTERNATIONAL ASSOCIATION OF MACHINISTS

Mr. BROWN. Mr. Chairman, my name is H. W. Brown, and I am president of the International Association of Machinists.

Mr. Chairman and members of the committee, I am grateful to the committee for the privilege of appearing here to present my views of the International Association of Machinists, hereinafter referred to as the machinists' union, with reference to the substitute for Senate bill 249, a measure which is of vital concern to my organization.

This bill proposes the repeal of the Labor-Management Relations Act of 1947, hereinafter referred to as the Taft-Hartley Act, and the reenactment of the National Labor Relations Act of 1935, hereinafter referred to as the Wagner Act, with certain amendments. I desire first to state the position of the machinists' union with regard to the proposed repeal of the Taft-Hartley Act.

In any discussion of the Taft-Hartley Act, we must bear in mind the conditions which existed between management and labor before the Wagner Act and, more important still, we must bear in mind that these conditions were directly responsible for the enactment of the

Wagner Act. We are convinced that this act, Wagner Act, was passed for the express purpose of giving a very large portion of our workers relief from the effects of conditions which prevented them from enjoying the rights and opportunities guaranteed in our Constitution and the Bill of Rights. In the period prior to the Wagner Act workers were at a tremendous disadvantage in their efforts to promote their own welfare and the welfare of their families. The top-heavy advantage of employers such as the influence of their resources, their connections, combines, and so forth—and particularly the fact that employers owned and controlled jobs—were used to exploit workers. In many instances, those who controlled credit denied credit to employers who were dealing fairly with the labor unions representing the workers. When workers objected to such exploitation, they were discharged and in many instances prevented from obtaining employment elsewhere through veiled, subtle, and cunning blacklisting. This type of exploitation was not good for our economy because it kept working standards at a low level, and substantially restricted the buying power of the workers who constituted the greatest majority of our citizens.

There is no question but that the Wagner Act was enacted to grant workers relief from those conditions. During the period between the enactment of the Wagner Act and the Taft-Hartley Act, workers did obtain some relief.

As a result of the act, working conditions improved and purchasing power of the plain people increased. Our general economy was greatly benefited by these results.

Notwithstanding these improvements, however, equality of advantages between workers and employers was not established. Prior to the Taft-Hartley Act employers still had many advantages at the bargaining table which workers did not have, but between the enactment of the Wagner Act and the Taft-Hartley Act many employers had accepted labor unions and collective bargaining because of the Wagner Act and, as a result, the general industrial relations in this country were much improved as compared with the relations existent since enactment of the Taft-Hartley Act.

The Taft-Hartley Act not only threatens to return us to the conditions which the Wagner Act was intended to relieve but actually has already made some of these conditions substantially worse. This act, the Taft-Hartley Act, by its language and, we believe, by its intent, makes the relief which the Wagner Act was intended to provide impossible. Thus, in the Taft-Hartley Act we have combined one piece of legislation which grants needed relief to a certain segment of our society and another piece of legislation which, in couched language, makes that relief impossible to obtain. To say to workers on the one hand, "You have a right to organize; you have a right to bargain collectively; you have a right to strike and the Government will protect you if anyone attempts to interfere with these rights," and then, on the other hand, render such workers helpless to utilize these rights, is not only an insult to the intelligence of the American worker but is, in itself, contrary to our system of government. This is exactly what the Taft-Hartley Act has done.

The Taft-Hartley Act has diverted the energies and resources of labor unions from the economic needs of workers to more intense and expensive struggles with those who oppose labor unions. The act has greatly stimulated the activities of the opponents of organized

labor and the exponents of the open shop, longer hours, low wages, and greater profits.

The machinists' union is one of the many unions which has suffered substantially because of the act. As a result of the Taft-Hartley Act, we were compelled to employ a battery of attorneys throughout the length and breadth of this country in order to properly protect our members.

Due to the greatly increased opposition of many employers, agreement negotiations were extended over substantially longer periods of time than the average time previously consumed in such negotiations. In many instances, the stimulated opposition of employers became so intense that strikes which would not have otherwise occurred, became evitable.

Employers in various parts of the country filed legal damage suits, totaling millions of dollars against my organization.

On the over-all, a very substantial amount of our resources and energies were devoted to the protection of our organization against those elements of opposition which were born and developed by the Taft-Hartley Act.

If time would permit, labor unions could cite many specific cases to support my previous statements. I would like to cite just a few of the experiences of the machinists' union in support of these statements.

In the northwestern section of our country, the machinists' union had, over a period of years, established a sensible relationship with a large manufacturer in the aircraft manufacturing industry. An agreement had been in effect for approximately 13 years. We had very little difficulty in renewing this agreement upon its expiration from year to year.

My organization assisted this company substantially in the elimination of Communists from their plant.

Senator DONNELL. May I ask, Mr. Brown, was that the Minneapolis company?

Mr. BROWN. No; the Boeing Aircraft Co., Seattle.

Senator DONNELL. Seattle?

Mr. BROWN. Yes.

Actually, the union assumed the brunt of this responsibility, costing us many thousands of dollars. Up to the time of the Taft-Hartley Act, our relationship with this company was actually considered a good example of industrial relations.

When it became evident that the majority of the Eightieth Congress favored legislation against labor unions, the attitude of the company commenced to change. When the Taft-Hartley Act became a reality, the attitude of the company changed substantially. The company stalled in the negotiations of a new agreement. As a result, negotiations were dragged out for some 17 months. Although we attempted every known means of settling our differences as we had done so often in the past, all of our efforts failed. In fact, we offered to arbitrate the issues in dispute but the company refused to agree to arbitration unless they, themselves, had the right of veto in the selection of any and all arbitrators.

All of this finally resulted in a very costly strike, costly to the stockholders and costly to the employees. In addition to all of this, the

company is presently suing the employees' union—the machinists' union—for \$2,250,000.

Senator TAFT. What for? For breach of contract?

Mr. BROWN. I beg pardon?

Senator TAFT. What for?

Mr. BROWN. Because of the charge that we violated the Taft-Hartley Act in that we did not serve the 60- or the 30-day notice, when negotiations had been in progress for almost a year prior to the act, and the record further shows there was an exchange of correspondence.

Senator TAFT. You cannot sue for damages for that.

Mr. BROWN. I beg pardon?

Senator TAFT. They cannot sue for damages.

Mr. BROWN. They are suing for violation of the contract.

Senator TAFT. Violation of the contract?

Mr. BROWN. Yes; because we did not conform to the provisions of the act. But the Labor Board upheld us.

Senator DONNELL. Where is that suit pending now?

Mr. BROWN. I beg pardon?

Senator DONNELL. Where is that suit pending now?

Mr. BROWN. In the courts in the State of Washington.

Senator DONNELL. State court or Federal court?

Mr. BROWN. State court, as I recall.

Senator DONNELL. State court?

Mr. BROWN. I believe that is so. I may be mistaken in that.

Senator HILL. Did you say the Board held that you had not violated your contract?

Mr. BROWN. Yes. First, the trial examiner; then, the Board, and now the company has resorted to the courts to prevent the application of the enforcement of the Board's order.

Senator DOUGLAS. Did the general counsel rule that the employees out on strike had lost their status as employees?

Mr. BROWN. I beg pardon?

Senator DOUGLAS. Did the general counsel rule that those who are out on strike had lost their status as employees?

Mr. BROWN. The general counsel of the Boeing Co.?

Senator DOUGLAS. No; the General Counsel of the National Labor Relations Board.

Mr. BROWN. No.

Senator HILL. Well, the National Labor Relations Board is what he is talking about now.

Mr. BROWN. The National Labor Relations Board, the General Counsel of the National Labor Relations Board? No; he did not rule as such. The Board ruled we had not violated our contract; that we had not lost our bargaining rights, and they directed the company to negotiate with us and continue negotiations, and reestablish industrial relations, and the Board made an award or a decision, and the company sued with respect to the award of the National Labor Relations Board.

Senator TAFT. Which, of course, they could do under the Wagner Act as well.

Mr. BROWN. I beg pardon?

Senator TAFT. Which, of course, they could do under the Wagner Act.

MR. BROWN. No; except this, Mr. Senator; that provision of the law was not in the Wagner Act.

SENATOR HILL. There was not a provision of the Wagner Act to sue on contract.

SENATOR TAFT. What I mean is that the employer could go into court to enjoin the act of the Board to find an unfair labor practice against an employer. My understanding was that they did find the employer guilty of unfair labor practices with respect to the employees. That is what I understand.

MR. BROWN. No.

SENATOR PEPPER. How long does it take you—How much did this cost you, this controversy?

MR. BROWN. Well, I would say that during the 5 months' strike it cost the grand lodge and the district lodge of our Boeing local in excess of \$2,000,000 for strike donations alone.

SENATOR HILL. Was the strike on for 5 months?

MR. BROWN. Five months; yes.

Prior to the strike we were negotiating for 17 months, and, as I stated a moment ago, we were willing to arbitrate all of the issues, but the Boeing Co. would only agree to arbitration providing it had the right to veto in the selection of any and all arbitrators.

SENATOR HILL. Was there any production at the plant going on during that 5 months of the strike?

MR. BROWN. Yes; they employed a number of strikebreakers, and I do not know how many ships were partly completed; in fact, almost entirely completed and they put the finishing touches on them and got out the ships, but after that production was practically a sandstill until the end of the strike, and the employees came back to work.

We are certain in our minds that this would not have occurred if it had not been for the Taft-Hartley Act and the sentiment which this act created; that is, that union labor must be pushed around and punished.

In a plant in the Middle West, our membership was engaged in a strike which had been sanctioned by our organization. The struck work from this plant was sent to another employer in the same area with which the machinists union had an agreement and whose employees also were members of the machinists' union. Under the Taft-Hartley Act, our members in the second plant were compelled to work as strikebreakers on which their fellow trade-unionists refused to perform because of economic reasons. This does not build the type of Americans who have made our country great. The reverse is true. It fosters dissension and strife, not only as between different segments in our society, but actually among those who are striving for a common interest.

SENATOR DOUGLAS. Mr. Brown, is this the Granite City case?

MR. BROWN. Granite City case; yes, sir. In another case—

SENATOR DONNELL. What company was that?

MR. BROWN. The Granite City Steel Co.

SENATOR DONNELL. Granite City, Ill.?

MR. BROWN. Yes.

In another case in the Great Lakes region, our members engaged in a strike for legitimate and proper reasons. The strike was sanc-

tioned by the machinists union. The company hired strikebreakers. After enough strikebreakers had been hired, the strikebreakers petitioned the Labor Board for a representative election on the pretense of having formed a so-called independent union, obviously inspired by management.

The National Labor Relations Board, pursuant to the Taft-Hartley Act, accepted the petition from this group of strikebreakers and ordered an election to be held on March 18, 1948. In tabulating the votes, the Board counted only the votes of the strikebreakers and, as a result, our union, which had previously represented the regular employees in this shop, was eliminated.

Senator DOUGLAS. Mr. Brown, may I ask how many votes the so-called independent union received?

Mr. BROWN. None. There were 148 votes cast. The company representatives challenged 74; the union representatives challenged 74. The Board only counted the votes cast by the strikebreakers. There were 72 cast for no union and 2 were cast for the machinists union.

Senator DOUGLAS. So that, in effect, all strikers were disqualified from voting.

Mr. BROWN. Yes.

Senator DOUGLAS. And that is in conformity with the provision in the Taft-Hartley law itself, section 9 (c) (3):

Employees on strike who are not entitled to reinstatement shall not be eligible to vote.

So, you are not blaming the Board in this matter.

Mr. BROWN. No.

Senator DOUGLAS. The Board only did what it was required to do by the Taft-Hartley law?

Mr. BROWN. Yes.

Senator DOUGLAS. Namely, to disenfranchise the strikers.

Mr. BROWN. That is correct.

Senator DOUGLAS. Now, there is another thing that interested me about this: You say that originally the independent union asked for an election.

Mr. BROWN. Yes; they did.

Senator DOUGLAS. And the employer presented the petition for an election?

Mr. BROWN. Yes; supposedly to give them an opportunity to determine if they wanted a different union to represent them.

Senator DOUGLAS. And yet when the election came, of the 74 replacements, no one voted for the independent union, and 72 voted for no union.

Mr. BROWN. Yes; but the—yes, 72—no, 74 votes of the strikers were not counted.

Senator DOUGLAS. I know the strikers were not counted.

Mr. BROWN. No; but among the strikebreakers—

Senator DOUGLAS. But among the 74 replacements—

Mr. BROWN. Seventy-two voted for no union and two voted for the machinists union.

Senator DOUGLAS. But the independents got no votes.

Mr. BROWN. That is correct.

Senator DOUGLAS. Does that indicate to your mind that this claim for an independent union was put up not to get the men represented by an independent union, but to wipe unionism itself out of the plant?

Mr. BROWN. Absolutely; because 72 of those 74, by their votes, indicated they wanted to bargain individually, try to exercise rights as individualists—when dealing with organized dollars, which is impossible.

Senator DOUGLAS. So this claim for an independent union was not really a claim in good faith. It was put up in order to drive out both the machinists and the straw union which was put up.

Mr. BROWN. That is correct, Mr. Senator.

Senator DOUGLAS. And to replace collective bargaining with individual bargaining.

Mr. BROWN. That is correct.

Senator DONNELL. What is this case in the Great Lakes region, Mr. Brown?

Mr. BROWN. I beg pardon?

Senator DONNELL. What company was it and where is it located?

Mr. BROWN. Just a moment. The Pipe Machinery Co., in Cleveland, Ohio.

Senator DONNELL. P-i-p-e?

Mr. BROWN. Pipe Machinery Co.

Senator DOUGLAS. May I continue with just one question?

Mr. BROWN. Yes.

Senator DOUGLAS. So that the Taft-Hartley Act operated to drive unionism out of the plant, and then to seal this plant off against unionism for at least a year.

Mr. BROWN. That is my understanding of the provisions of the Taft-Hartley Act.

Senator DOUGLAS. So that the Taft-Hartley Act operated to drive unionism out of the plant, and then to seal this plant off against unionism for at least a year.

Mr. BROWN. In other words, the Taft-Hartley Act permits management to pack their plants with strikebreakers, and then they use the strikebreakers to organize a phony union, and then go to an election, if the Board gives consent to an election, to destroy collective bargaining, and establish contractual relationship between union and management, and bring back the old days of even before the Wagner act, where the worker was supposed to travel the path of an individualist.

Senator DOUGLAS. Do you remember the comment of ex-Congressman Hartley when the law was passed?

Mr. BROWN. I beg pardon.

Senator DOUGLAS. Do you remember the comments which ex-Congressman Hartley made when the law was passed, namely "There is more to this act than meets the eye"?

Mr. BROWN. Yes; I recall that.

Senator DOUGLAS. Would you say that he might be referring to this clause when he spoke as he did?

Mr. BROWN. Yes; and many more, I believe, that the November 2 elections were going in the other direction.

Senator HILL. Mr. Brown, let me ask you this: How long have the machinists union been the bargaining agent of the workers in this plant before this thing happened? Do you recall about how long?

Mr. BROWN. No; I do not know. I believe it was several years. I cannot tell you the exact amount, but in the Granite City case we were representing members of a craft for over 50 years, the Interna-

tional Association of Machinists over 50 years, and they used the provision of the Taft-Hartley Act to get us out of that plant.

Senator HILL. In other words, they used the same procedure that was used in this Great Lakes case, practically?

Mr. BROWN. No; the method was different.

Senator HILL. Are you going to discuss this other case, the case you just referred to?

Mr. BROWN. I would rather go along and then come back to answer the question.

Senator TAFT. I wanted to ask another question. How long did the strike last before an election was held? How long had that strike lasted?

Mr. BROWN. At the moment I cannot say, but I will be very glad to drop the committee a line and give you the time they were out.

Senator TAFT. My opinion is that that they were out over a year before this election was finally held; is that correct?

Mr. BROWN. That is possible.

Senator TAFT. And also that the Board, in finding what is a strike-breaker, that is, who can vote, found that these men were not strike-breakers; that they would not permit them to vote unless they were men who were permanently employed, who came from the geographical area, who had skill in this particular line, and had been hired as permanent employees. Is that correct, according to the Board opinion?

Mr. BROWN. No; that is not correct. Mr. Senator. They were hired after the strike was declared; they crossed the picket line, and the picket line is still in operation at that plant.

Senator TAFT. I understand that. But, as to these people, they were not hired just to break the strike, but as permanent employees; and they were willing to take the same wages that your men were declining to take, is that correct?

Mr. BROWN. Well, Mr. Senator, during a strike I will not believe an employer when he hires strikebreakers to take the strikers' places, when he claims that they are not hired as strikebreakers, but hired as permanent employees in every strike.

Senator TAFT. You do not trust the Board, but I am saying that the National Labor Relations Board required that these men hold the qualification of permanent employees, having skills, coming from the geographical area, getting the same wages, taking the same wages which you had declined to take, before they would permit them to vote.

Mr. BROWN. Yes.

Senator TAFT. As employees of the company, is that correct?

Mr. BROWN. I understand that was the requirement.

Senator TAFT. Yes.

Senator PEPPER. But, Mr. Brown, does it not make it possible for the company to break the union anytime?

Mr. BROWN. In every strike they can take that same position.

Senator PEPPER. Exactly.

Senator TAFT. Mr. Brown, if there are people skilled in that trade and willing to take permanent positions in that particular plant, don't you think they have a right to get those positions at those wages?

Mr. BROWN. No, Senator.

Senator TAFT. Why not?

Mr. BROWN. Senator, as a trade-unionist, I say no one is—

Senator TAFT. Otherwise, then, if an employer has a strike he either has to agree to what the union says or he has to close up.

Mr. BROWN. Not necessarily, no.

Senator TAFT. Isn't it true that under the Wagner Act the Court had already held that men of this kind were permanent employees, and that the men who were striking did not have any right of replacement under the Wagner Act, isn't that the fact?

Mr. BROWN. No, I do not say it is a fact.

Senator TAFT. Is it not a fact that the only difference between the Wagner Act and the Taft-Hartley Act in this respect is the fact that in the Wagner Act they permitted these men to vote and also the strikers, and under the Taft-Hartley Act it did not permit the strikers themselves to vote where they themselves had been permanently replaced, and were not entitled to get the job back under the Supreme Court's opinion?

Mr. BROWN. Mr. Senator, I do not find anything in the Wagner Act that would permit this incident I speak of, that happened under the Taft-Hartley Act.

Senator TAFT. Well, it would have permitted these men to vote, that is what the Supreme Court already held, and what the Board had already held, according to the testimony we have had here—that these replacements were permitted to vote under the Wagner Act. The only question was on both of them.

Mr. BROWN. But the Wagner Act did not bar the strikers from voting.

Senator TAFT. That is the difference.

Mr. BROWN. I agree, yes.

Senator TAFT. I agree with that, and personally I have expressed my opinion here before, I think that we had better repeal the section. I just want to point out that it was not so different, not quite so different from the Wagner Act as has been suggested before.

Senator PEPPER. Under the Wagner Act if you could show this was just a ruse for getting rid of the union, you would have a different situation. You could not discriminate against anybody because he belonged to a union.

Mr. BROWN. You would be in a better position to convince the Board.

Senator PEPPER. That is right.

Mr. BROWN. You would be in a better position to convince the Board that they should not permit a vote under those circumstances.

Senator TAFT. Now, if this had been a collusive attempt to get a vote, as was suggested, the Board, under the Taft-Hartley Act, as under the Wagner Act, could have thrown out the election, could it not?

Mr. BROWN. Yes.

Senator TAFT. Yes. So they might have found it was not a collusive attempt to get a vote.

Mr. BROWN. Well, I am not responsible for the Board's thinking on that, Mr. Senator.

Senator DOUGLAS. Do not the results indicate it was a collusive attempt? If it had been a bona fide attempt to get a union organized, certainly it would have been able to command some votes in the election that took place, instead of which the union did not get a single vote.

MR. BROWN. Yes, Senator, and I want to qualify that statement. It might be in the way of repetition, but I contend if a group of workers, regardless of whether they are good citizens or strikebreakers, and they petition the Board for an election, it is because they want to bargain collectively, and when the Board gives them that election, and then they vote that they do not want to bargain collectively, they want to try to exercise their rights as individuals and travel the path of the individualist, then I say it is fraud; it is subterfuge and was only possible under the Taft-Hartley Act.

Senator HILL. And 72 out of 74 voted that way.

MR. BROWN. Seventy-two out of seventy-four voted for no union.

Senator HILL. That is what I say, 72 out of 74 voted that they did not want any union, a member of your organization, independent, company, any other union; they wanted to go by themselves.

MR. BROWN. Correct.

Senator HILL. As individuals.

MR. BROWN. And two voted for the machinists' union, and not one vote was cast for the union, so-called, who petitioned this Board for this election.

With respect to the amendments in the nature of a substitute to Senat bill 249, we are not touching on sections 101, 102, 103, 104, and 105 as they deal exclusively with administration and the legislative manner in which to bring about the repeal of the Taft-Hartley Act.

With respect to the prevention of unjustifiable secondary boycotts and jurisdictional disputes in section 106, we believe that this section as written is about as far as the Government should go in the umpiring of relations between unions. It must be remembered that not all jurisdictional strikes are caused by unions; some are provoked by employers.

We have some concern, however, that the past work history criteria set forth in this section with respect to settling jurisdictional disputes may allow some union which has claimed and performed another union's work to present a compelling case on the work history doctrine when, in fact, it has performed this work contrary to its original jurisdictional grants.

In other words, the mere fact that a thief has held another's purse for a period of years does not give him the right to legal ownership of that purse; hence, such decisional principle can prove unfair to a union if given too much weight.

With respect to the secondary-boycott features of this section, we believe that the boycotts proscribed are as far as the Government should go in preventing secondary boycotts, as pointed out earlier.

Section 107, which permits union-shop agreements and prevents State laws from interfering with such agreements is one of the most desirable features of this proposed bill.

We believe that Congress should set the legislative pattern on a national scale on so vital an issue as the union shop. Such matters should not be left to State legislatures, particularly in industries which affect the commerce of our Nation.

We would recast section 108 to limit the serving of notice to terminate agreements to the parties on each other. Under the terms of the section, as proposed, it is conceivable that an agreement may be terminated without the knowledge of one of the parties. Our organization has, for many years, followed a practice of not granting a

strike sanction until the services of the Conciliation Service had been utilized.

At least a 30-day notice is required almost universally in labor agreements. We would eliminate the necessity of filing such notice with a Federal agency. If Congress wants to impose such a requirement, the requirement should be that the notice be filed between the parties. If one or the other desires the services of the Conciliation Department, let that be voluntarily requested.

We favor the return of the Conciliation Service to the Department of Labor as proposed in title II of the proposed bill.

The Service has, since its inception and prior to the Taft-Hartley Act, been under the Secretary of Labor. That is where it belongs.

The charge that the Labor Department is biased is absurd. Answering those who make that charge, and on the basis of their reasoning, labor could well take the position that the Service will be biased in favor of industry whenever headed by a former business executive. Any insinuation that the Labor Department is biased is an unfair accusation and carries a connotation of manipulation of a Federal agency.

We offer no objection to section 202.

We cannot agree that a commissioner of conciliation should not serve as an arbitrator as outlined in section 203 if the parties agree that he should serve.

We are in accord with section 204 and the declaration contained therein might well be included in title I of the act to give added stature to the bargaining provisions of the 1935 act.

We agree in principle with section 205. We believe, however, that some method of free arbitration should be provided. We have consistently advocated free arbitration since its abolition because we know of some employers who insist on forcing every issue of disagreement to arbitration, and we believe they do so to drain the union treasury.

Senator DOUGLAS. May I interrupt just a minute? Would you say, therefore, that the Government should furnish free courts to which employer and the workers may go to arbitrate disputes arising concerning the interpretation of existing contracts?

Mr. BROWN. That is right, Mr. Senator.

During the war we had several such employers and several of our locals were forced to demand free arbitration to prevent their bankruptcy.

We subscribe to the Labor-Management Advisory Committee provided for in section 206. This kind of committee can prove very helpful.

The provisions of title III seem to be the proper manner in which to handle emergency situations. These provisions represent a sound procedure of Government participation into labor-management relations. A somewhat similar procedure has worked fairly well under the Railway Labor Act. It will be more productive of solutions of national emergency disputes than getting injunctions.

I do not believe that a formula can be found that will guarantee the prevention of strikes even in vital industries. Human beings will rebel when working conditions become intolerable.

We are in accord with title IV of this act and particularly section 402. A labor union is a voluntary association formed for the pur-

pose of bettering the economic welfare of its members. As such it must, from time to time, engage in political action to insure the election of progressive and forward-looking citizens. Under these circumstances it has a duty toward its members to see that they have all of the facts concerning candidates for office. The membership of labor organizations should be allowed, if they want to use their funds, to elect men to office who stand for the things workingmen join unions for.

The Taft-Hartley Act, in almost all of its provisions, and certainly in its general concept, has been detrimental to the welfare of our plain people. It has become the weapon and the breastwork of the antilabor forces in this country in their unceasing fight against labor unions. It promotes industrial unrest and chaos, all of which is gravely detrimental to the general welfare of our country.

The CHAIRMAN. Thank you, Mr. Brown.

Senator PEPPER.

Senator PEPPER. Mr. Brown, you have had how many members of the machinists' union? How many members are there?

Mr. BROWN. Oh, there are close to 650,000.

Senator PEPPER. How old is that union?

Mr. BROWN. In May we will have reached our sixty-first birthday.

Senator PEPPER. How long have you been the president of the union?

Mr. BROWN. I have been the president for the past 10 years.

Senator PEPPER. What was the record of that union in keeping its contracts, in dealing in a friendly and harmonious way with the employers, prior to the passage of the Taft-Hartley law?

Mr. BROWN. I believe the records show that our record was second to none.

Senator PEPPER. What has been your experience since the passage of the Taft-Hartley law?

Mr. BROWN. Since the passage of the Taft-Hartley Act, many employers are becoming very difficult to transact business with, with respect to differences arising over the application of the agreement. That is what is happening. There are many differences with respect to the period when we are negotiating to renew agreements.

Senator PEPPER. Do you think that attitude on the part of management has been influenced by the existence of the Taft-Hartley law, and the power that it gives them to bring action against you or to deal adversely with the union?

Mr. BROWN. Yes; and my further opinion, Mr. Senator, is that I believe that the authors of the Taft-Hartley Act had in mind to so weaken the labor movement that they could return to the days we had following World War I, especially during that period from 1923 to 1929 when we had that period of lopsided prosperity that brought about that business depression.

We reached the peak in the early 1930's, and we almost drove our Nation to the brink of disaster. I say that because of the records compiled and published by the United States Government showing that the sale price of the products of the manufacturing branches of industry in 1929 had increased close to \$9,000,000,000 over and above the retail sales price of the products manufactured by industry. Yet the pay roll in the manufacturing branches of industry in 1929 only exceeded the 1923 pay roll by approximately \$600,000,000. Yet the

products that were put on the market, they increased during that period to close to \$9,000,000,000, and I have got reason to believe that if that same differential, that same lopsided prosperity of the manufacturing industries of business was such that the result was that the buying power, the ability of the plain people of this country to buy, lagged so far behind production, stagnation set in; following stagnation we had unemployment; unemployment begets unemployment, and we all know what happened in the early 1930's which brought about finally a political revolution in November of 1932 or 1933.

Senator PEPPER. Do you agree with the sentiment—I am not proposing to quote his words, but I remember his statement before the committee, and I did quote his exact words on the Senate floor in arguing against the Taft-Hartley bill in the Senate—I said, Do you agree with the general sentiment expressed by Governor Stassen, of Minnesota, when he appeared before this committee, at least in opposition to some features of the Taft-Hartley bill, when he warned that legislation which so weakened the unions that they could not effectively keep up and constantly raise the wages of the workers would tend to impair the national prosperity because wages being beaten down, when unions were weak, would tend to diminish the purchasing power of the people and, therefore, to provoke another depression?

Mr. BROWN. Correct.

Senator PEPPER. Do you agree with that general statement?

Mr. BROWN. Yes.

Senator MORSE. Does the Senator from Florida mean to imply that he speaks for Governor Stassen in his views of the Taft-Hartley law?

Senator PEPPER. That was before the Governor from Minnesota became active as a candidate for President. I will say that the Senator from Ohio never changed his position, although I must profess to coming to the conclusion that the Governor of Minnesota's statement was different from the statements he made later.

Senator TAFT. His expressions, however, before the committee, were generally in favor of the bill, as I recollect it. He objected to one or two things, but in general he approved the bill.

Senator PEPPER. I remember an animated controversy between Governor Stassen on one side, and you and Senator Ball on the other, that was not an indication of harmony.

Senator TAFT. That was on economic——

Senator PEPPER. This very kind of economics we are talking about.

Senator TAFT. The same kind of argument which I do not follow, Mr. Brown, but I will not open the subject, anyway.

Senator PEPPER. Now, you being a union that was composed of hundreds of thousands of workers, I will ask you if you found it possible under the Taft-Hartley law for the union as effectively to represent those workers as was possible before the Taft-Hartley law was passed.

Mr. BROWN. Positively, no; it was not.

Senator PEPPER. If there had been a law like the Taft-Hartley law on the statute books for the last 15 or 20 years, would it have been possible for union membership to obtain the high level it has in this country now and for unions to have been as effective as they have in that period of bettering the working conditions and the living conditions of the workers?

Mr. BROWN. Mr. Senator, if we would have had the Taft-Hartley Act as now written, we would have a condition today, in my opinion,

that would make us blush with shame when we tell the Europeans about democracy in this country and point to this as a reason why they should turn their backs to those who preach for the totalitarian state.

In fact, it would have hastened the time when this country's main job would be to resist those who want to establish in this country what so unfortunately is established in Europe.

Senator PEPPER. Well, Mr. Brown, you know that under the Taft-Hartley law there is authority in the general counsel of the NLRB in certain cases to bring application for injunctions, do you?

Mr. BROWN. Yes, sir.

Senator PEPPER. Were you in the room this morning—

Mr. BROWN. No; I was not.

Senator PEPPER. When Mr. Denham was testifying?

Mr. BROWN. No; I was not.

Senator PEPPER. Did you hear the testimony that 40 of the 42 injunctions that his office had filed were filed against unions? Two were filed against employers.

Mr. BROWN. No; I have not been present when any witnesses appeared before your committee.

Senator PEPPER. Well, you know, of course, that it was the Taft-Hartley law that removed the prohibition against the injunction—

Mr. BROWN. Yes.

Senator PEPPER. That was contained in the Norris-LaGuardia Act?

Mr. BROWN. Yes; I do.

Senator PEPPER. Now, I will ask you if it is not possible if you give a general counsel the unrestrainable power to initiate these injunctions and if he should, by chance, align himself with the employers, if you haven't practically restored conditions to what they were prior to this Norris-LaGuardia Act?

Mr. BROWN. Absolutely; yes.

Senator PEPPER. In other words, you can make the Government the instrument of the employers who want to get injunctions against employees?

Mr. BROWN. That is my opinion, Mr. Senator.

Senator PEPPER. Mr. Brown, this law, the Taft-Hartley law, made it a subject that might be a basis for a lawsuit if there were to be a breach of contract between—I mean, if there were to be an alleged violation of contract between management and labor, that, for the first time, put those feuds in the Federal courts, at least in the cases in which they appear here in the Federal court?

Mr. BROWN. Yes.

Senator PEPPER. When there was not \$3,000 and diversity of citizenship not an issue.

Now, then, in addition to that, is that power, in your opinion, the power to sue the union for damages for breach of contract, is that a power, in your opinion, that you know of—in any instances where such suits have been brought—is that a power that would give the employer the power to drain the treasury of the union and subject the union to bigger lawyers' fees and constant harassment?

Mr. BROWN. Absolutely; yes.

Senator PEPPER. Didn't you say in your testimony that your union has been sued by some employer for \$2,000,000?

Mr. BROWN. Yes; the Boeing Aircraft Co.

Senator PEPPER. Sued for \$2,000,000?

Mr. BROWN. Yes.

Senator TAFT. You said in the State court, Mr. Brown. Are you right about that?

Mr. BROWN. I am not certain about that, Mr. Senator. Many of the details of organization I do not give my personal attention to.

Senator TAFT. Well, if it was, then the Taft-Hartley Act had nothing to do with it.

Mr. BROWN. It must be in the Taft-Hartley Act.

Senator PEPPER. Are you aware of the fact that in section 303 of the Taft-Hartley law there is an additional power conferred to bring suits against the unions?

On page 26 it is made unlawful:

For the purposes of this section only, in an industry or activity affecting commerce, for any labor organization to engage in or to induce or encourage the employees of any employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities, or to perform any services, where an object thereof is—

Then it names four categories.

Then, at the bottom in subsection (b) it says:

Whoever shall be injured in his business or property by reason of any violation of subsection (a) may sue therefor in any district court of the United States subject to the limitations and provisions of section 301 without respect to the amount in controversy, or in any other court having jurisdiction of the parties, and shall recover the damages by him sustained and the cost of the suit.

Doesn't that open up almost a Pandora's box of possible lawsuits against unions by management?

Mr. BROWN. Yes; I think that was one of the provisions that Congressman Hartley was thinking about when he made that comment.

Senator TAFT. That is with respect to damages for a secondary boycott and jurisdictional strike. Senator, it is not a Pandora's box.

Senator PEPPER. Yes. I say it opens up a Pandora's box against—

Mr. BROWN. It could be that in the ABC company Mr. XYZ has had an order placed there to manufacture something, and because of the strike, why, everything was at a standstill, and it is possible that that company could sue the union. The company could sue the union because of the orders not being filled.

Senator PEPPER. Now, there is a case where a damage suit, a damage suit by the employer against the union, is specifically authorized for those four things that are characterized in section 8 and in the subparagraph (b) as unfair labor practices.

Mr. BROWN. That is my understanding of section 303.

Senator PEPPER. Whereas the ordinary public who hears about the Taft-Hartley law says, "Why, if you have got a contract both sides should keep the contract. If either side violates it, why then, they should be subject to suit," overlooking the fact that one of them, one side is a human being, and that what is involved is personal services, not to perform some task that might require the payment of a sum of money in substitution, but the performance of personal services; whereas the other side is paying a sum of money.

Senator DONNELL. Will the Senator yield for an inquiry?

Senator PEPPER. Just a moment. They do not say that in addition to the right to sue for breach of contract in section 303 to which I have

just adverted, there are four categories of cases where you can bring a lawsuit for damages arising out of an unfair labor practice, do you?

Mr. BROWN. That is correct.

Senator PEPPER. Do you know of any correlative obligation, do you know where any of the unfair labor practices that might be indulged in by the employers are made the subject of a lawsuit by the employees in the Taft-Hartley Act?

Mr. BROWN. There doesn't appear to be any there.

Senator PEPPER. Senator Taft, have I overlooked any comparable provision to section 303 where any unfair labor practices by the employers are made the basis of a possible lawsuit in a Federal court by the employees, as in section 303?

Senator TAFT. If a man breaks a contract with an employee, he is suable. These are cases where third persons who have no connection with it are damaged. They are not suits by an employer against his employees. These are suits for third parties who are injured by a secondary boycott; that is, the first three items are.

Senator PEPPER. Yes; but if the men who provoked—

Senator TAFT. If an industrialist does the same thing to another industrialist he is subject to a suit for damages if he injures the business of a third man. I see no particular reason why a labor union should not also be liable under the same circumstances.

Senator PEPPER. (Reading) :

Whoever shall be injured in his business or property by reason of any violation of subsection (a) may sue—

that is, subsection 303 contemplates suits only against the union.

Senator TAFT. Under the common law a man could sue almost anybody except a union if his business is damaged, and this gives the same right against unions. That is the only distinction.

Senator PEPPER. The point of it is that this bill expressly conferred authority to sue the unions for unfair labor practices, but did not expressly confer any authority to sue management or third parties who were on the management side for unfair labor practices.

Mr. BROWN. That is my understanding.

Senator TAFT. Well, under the law itself they got back-pay for many, many months, and another equivalent form of damage.

Senator PEPPER. Now, Mr. Brown, the law did abolish the closed shop?

Mr. BROWN. Yes.

Senator PEPPER. It did abolish the closed shop which existed, where hundreds of thousands of workers were already covered under long-term contract.

Mr. BROWN. That is correct.

Senator PEPPER. In addition to that it did make more difficult the union shop, did it not?

Mr. BROWN. Yes.

Senator PEPPER. So that the practical effect of it was to make organization more difficult, in the first place, and effective representation of the worker by the organization more tedious and difficult, in the second place.

Mr. BROWN. Yes; and it opened up the door for the unfriendly employer to plant disrupters in the organization and if he preferred charges against him and gave him a trial and expelled him, and he

offered to pay dues after he was expelled, the employer need not and could not fire him from the plant for that purpose.

In other words, if the members of a local union made the mistake in selecting a man as financial secretary and treasurer and if he misappropriated funds, and they put him on trial and expelled him, found him guilty and expelled him, if that individual came to the financial secretary the next day and said, "I want to pay the dues," and so report to the employer, under the provisions of the act that employer could not discharge him.

Or if an employer planted a man in the plant for the purpose of disrupting the organization, and the man in the plant, unbeknownst to the employer or the union members, was a Communist, and undercover man, and he preached the philosophy of those who favor the totalitarian state, and the union uncovered him, preferred charges against him and expelled him, and then to make a joke out of it he was told to come to the financial secretary and offer to pay dues, of course, the financial secretary would say "No," after he was expelled, and he goes to the employer and says, "I have got a difference with my union; I offered to pay dues; they refused to accept my dues," that employer could not expel him or discharge him because of the reason that he was expelled from the union so long as the record shows he was willing to pay the dues.

SENATOR TAFT. Mr. Brown, that is not a correct interpretation of the law; that is not the fact. The employer could fire him without the slightest question under those circumstances.

MR. BROWN. Not according to the language of the act.

SENATOR TAFT. Oh, yes; he could not make the union fire him but he could fire him.

MR. BROWN. Voluntarily.

SENATOR TAFT. That is right. You said he could not fire him and I say he could.

MR. BROWN. But if the union came and said, "Here is a secretary or treasurer who absconded with thousands of dollars——"

SENATOR TAFT. Do you think the employer would keep him?

MR. BROWN. Some employers would. Employers who plant men in the shop, in your union, to disrupt the union, would not discharge that kind of a man.

SENATOR PEPPER. Well now, just one last question, Mr. Brown. You had experience under the Wagner Act; did you not?

MR. BROWN. Yes; I did.

SENATOR PEPPER. The Wagner Act was enacted for the purpose of enabling workers to organize and to give them a protective right to bargain collectively with their employers; was it not?

MR. BROWN. Yes. Furthermore, the Wagner Act——

SENATOR PEPPER. Yes.

MR. BROWN. Was calling a halt to the opposition directed against organized labor prior thereto.

SENATOR PEPPER. It was, in other words, trying to equalize, as much as that method would allow equalizing, the bargaining power of management and labor.

MR. BROWN. Correct.

SENATOR PEPPER. It recognized that when management spoke it spoke to a president or general manager or to an executive of the company; did it not?

Mr. BROWN. Yes.

Senator PEPPER. Whereas in the past labor had simply been a multitude of individuals, and the individual was unable to deal effectively with that combination of dollars, represented by management on the other side.

Mr. BROWN. The Wagner Act was put in—was intended to put into practice what we always understood was the policy of our Federal Government.

Senator PEPPER. In other words, to encourage—

Senator DONNELL. Senator Pepper, might I just ask a question in connection with your question a moment ago? You spoke about the Wagner Act equalizing things.

Senator PEPPER. I said, so far as that method would allow. I did not mean to infer—it did not mean anything like equality.

Senator DONNELL. Is there anything in the Wagner Act that makes anything that is done by a labor organization an unfair labor practice?

Senator PEPPER. No, and it did not make anything that was done by management an unfair labor practice, except interfering with the labor unions.

Well, it did not purport to regulate, Mr. Brown—let me finish my question—if the Senator will allow.

Senator DONNELL. Very well.

Senator PEPPER. It did not purport to regulate the internal affairs of the employer corporations; did it?

Mr. BROWN. You are quite right.

Senator DONNELL. Whom do you mean by the authors?

Mr. BROWN. According to the statement by a Member of the House—at the moment I cannot recall his name; he is from a congressional district in New York State, where he made a statement on the floor of the House, and as I understand, he was not contradicted, that the Taft-Hartley Act, sentence by sentence, paragraph by paragraph, was written by the National Manufacturers Association.

Senator DONNELL. Do you believe that?

Mr. BROWN. Well, I am referring to what the Member of the House said, and I understand he was not contradicted. If you ask, do I believe it, speaking of my own opinion, I say that I believe that the National Manufacturers Association, the National Metal Trades Association, were very conspicuous with respect to their opposition to organized labor and influenced the authors of the Taft-Hartley Act.

Senator MORSE. For the purposes of the record, Senator, your question ought to say: "Taft-Hartley," instead of "Wagner" Act. You used the term "Wagner Act."

Senator PEPPER. I was referring, of course, to the Taft-Hartley Act.

Mr. BROWN. You were? I thought you were talking about the Taft-Hartley Act.

Senator PEPPER. I was.

Now, Mr. Brown, is it not a fact that during the war there had been a great increase in union membership?

Mr. BROWN. Yes.

Senator PEPPER. And is it also a fact that there were great numbers of employers in this country who were very much dissatisfied with the fact that unionism had grown as much as it had and were determined when the war was over to form some counteraction, some

concerted action, to weaken if not to break the labor union movement in this country?

MR. BROWN. Mr. Senator, prior to the Wagner Act I do not believe our union had 150 agreements with employers. Before the Taft-Hartley Act came we had over 10,000 employers. In other words, over 10,000 employers had established contractual relationships with our union, and we secured those contracts.

I will put it this way: That in less than 1 percent of the cases were our members required to resort to a stoppage of work. More than 99 percent of those contracts were arrived at at the conference table.

SENATOR PEPPER. Well, I say, do you concur in the opinion that I intimated that there was a considerable sentiment among employers of this country that as soon as the war was over they were going to make concerted efforts to weaken, if not to break the strong labor-union movement in this country?

MR. BROWN. Mr. Senator, there was common talk in a number of shops on the part of the shop supervisors, and I do not know whether they were speaking with authority from the front office, but there was a common statement: "Wait until the time comes when the pendulum is going to swing in our direction, and then it is going to be our day."

SENATOR DONNELL. Can I ask the Senator a question?

Does the Senator have any evidence of concerted action?

I mean, any conferences between representatives of employers in which it was agreed that they were going to go out here and break down the labor union movement?

SENATOR PEPPER. I think, Senator, there could be a good many instances if the truth were known.

SENATOR DONNELL. Have you found any of those cases out?

SENATOR PEPPER. I am not going to take time out here—

SENATOR DONNELL. We can take time out here if you know what they are. We would like to have them in the record, and look into it.

SENATOR PEPPER. The reason I do not want to take time here is because the hearing time is limited.

SENATOR DONNELL. Well, you can just tell us a half dozen instances, or three, or two, or one. Just give us one instance where there was a conference of that kind.

SENATOR PEPPER. Senator, there is not enough paper on these desks to recount the instances if they knew of them. They were going on all over this country and whenever a group of those fellows got together, one of their principal aims—

SENATOR DONNELL. Now, some gentleman has handed you a piece of paper here which, I suppose, has one instance on it. I would like for you to tell us what that one is, if that is what it is, or any others that you may know of independently.

SENATOR PEPPER. I think somebody has estimated that there probably was a hundred million dollars there altogether.

SENATOR DONNELL. That is on the paper there?

SENATOR PEPPER. Yes; the propaganda in the newspapers and magazines of the country, and so on. But what I started to say was that I distinctly remember a reference to a meeting at the Waldorf-Astoria Hotel in New York where a group got together, and which was brought out at one time in this committee in the hearings, before the hearings of this committee, where they got together and talked about a concert

of action. They had guards in the hall, where they talked about a concert of action to bring about antilabor legislation in the country.

Well, anyway, Mr. Brown, I think it is said that a man is presumed to know the legal consequences of his act, and the legal consequences of the Taft-Hartley Act have been just that, to weaken, if not in some instances to break, the labor unions of this country.

Mr. BROWN. You are absolutely correct, Mr. Senator.

Senator PEPPER. That is all.

Senator HILL. Mr. Brown, you suggested, as I understood it, that there was an illustration wherein your union had represented workers in a certain company for some 50 years, and the company, the employer, had used this act to break that union. Do you recall the facts in that case?

Mr. BROWN. Yes. That is the Granite City Steel Co.

Senator HILL. Would you briefly give us the facts in that case?

Mr. BROWN. Well, there was a difference over the application of an agreement, and the strike was a result. The company then transferred a part of the work to another shop in the St. Louis area that had an agreement with the Machinists Union.

The employer accepted that contract, but the members of the Machinists Union could not strike as a protest in bringing that work to that plant, and because—

Senator HILL. You mean the second plant, the second company?

Mr. BROWN. I beg pardon?

Senator HILL. The employees of the second company could not?

Mr. BROWN. That is true, the second company could not; and the result was that our local union in that area now realizes that because of that condition under the Taft-Hartley Act they are helpless, that the Granite City Steel Co. could continue for almost any period of time to operate without the need of the members of our union in that plant when they can transfer the struck work into another plant, and the members of the union, in fact in that particular case—there is one family where one member of the family is on strike in the Granite City Steel Co., and another member of the same family working in this other shop, and he cannot act jointly with his fellows to strike against that struck work.

Senator HILL. In other words, the second member of the family is working against the interests of the first member of the family.

Mr. BROWN. In effect he is scabbing on him.

Senator HILL. Is that strike on now?

Mr. BROWN. Yes.

Senator HILL. At the present time?

Mr. BROWN. Yes.

Senator HILL. How long has it been going?

Mr. BROWN. That strike went on, I think, in the early part of 1948.

Senator HILL. Went on about a year ago?

Mr. BROWN. Yes.

Senator HILL. About a year?

Senator DONNELL. I would like to ask a question, a few questions, when I can get around to it.

The CHAIRMAN. Senator Douglas.

Senator DOUGLAS. I wondered in the aircraft case, the Boeing case, on what ground did the Boeing Co. refuse to negotiate with the union? On what alleged ground? That the union had not served

notice the full 60 days in advance or had not served the Conciliation Service with notice 30 days in advance?

MR. BROWN: No; that was not the reason that they would not negotiate. They were negotiating with the union for 17 months, but they got nowhere in that period of time. The company was stalling. I say "stalling" because we wanted to resolve those difficulties by arbitration, and they refused unless they could have the right of veto in selecting the neutral arbitrator.

SENATOR TAFT. You mean they would arbitrate only if you and they would agree on the arbitrator, that is what it comes to? I mean, talking about this veto, isn't that what it means; isn't that what you mean?

MR. BROWN. Now, wait a minute, Mr. Senator. Here are the facts: We received a report that this company wished to have the right to veto any right to name an arbitrator. I refused to believe it. I took a plane and went to Seattle, and I met the president of the company, and I asked him that question, and he said, "Yes, Mr. Brown, that is it. We are not going to permit a board of arbitration to pass on a case which means that it is going to increase the operating costs of this company."

I said, "Do I understand that since you people here, the union and the management, cannot resolve these differences that you refuse this kind of a program, that each party select an arbitrator; if those two arbitrators cannot select a third, or if they do, you must have the right of veto? You have got a right to say whether you are going to accept them or not?" I said, "Is that true?" I said, "Let me propose to you that we ask the Secretary of Labor to submit a panel of five, seven, or nine names, and each one have the right to strike off the equal number of names, and the odd man will remain." He said, "I will accept him if I have got the right to veto; that if I do not believe that he can make a fair decision, I have the right to veto him."

SENATOR TAFT. In effect, he refused to arbitrate unless you and he could agree on an arbitrator.

MR. BROWN. That is true. That can be verified by Mr. Ching. Mr. Ching thought he could break the company's position with respect to that, but he did not succeed.

SENATOR DOUGLAS. Did the Boeing Co. refuse to meet with the Conciliation Service?

MR. BROWN. I think they did. There was a time when management stalled and would not meet them, but they did go on, and they did meet them.

SENATOR DOUGLAS. Did the company allege that the workers had lost their status as employees?

MR. BROWN. Yes.

SENATOR DOUGLAS. On what ground?

MR. BROWN. On the ground that—you are speaking now of the strike period?

SENATOR DOUGLAS. Yes.

MR. BROWN. On the ground that they had failed to file that 60-day notice and subsequently thereto the 30-day notice. When the record showed that before the Taft-Hartley Act was the law of the land, management and the union exchanged letters advising each other that they wanted to meet in conference, they each proposed amendments to

the contract, they went into the conference to negotiate on the basis of those proposals submitted by both management and union, and the negotiations started on October 1946.

Senator DOUGLAS. So that any failure to file was purely a technical failure. It was not an actual failure to notify.

Mr. BROWN. Well, up until management raised that point our people and myself did not believe that that was necessary because the reason for that notice, that provision in the Taft-Hartley Act, is to give each party notice, and the Federal Government; that one party or the other wishes to open up the contract to make amendments; and the very fact that that had been gone through before the Taft-Hartley Act became a law, had been negotiating for months, following that notice given to either party, it never dawned upon our people that although they had done that, that as a matter of form or routine, that they should give another notice to merely say "We serve notice now that you shall do that which was done months ago."

Senator DOUGLAS. Some months later, didn't the National Labor Relations Board hand down a ruling upholding your position?

Mr. BROWN. Yes. After the strike was in progress for some time, a field examiner made an examination and he handed down a ruling supporting the position of the employees, and his position was supported by the Board.

Senator DOUGLAS. But a good deal of time elapsed.

Mr. BROWN. Yes; that is true. I could not tell you the exact time.

Senator DOUGLAS. In the meantime, your union was under a disadvantage.

Mr. BROWN. Yes. Today we have no bargaining rights. The company will not even recognize a committee to handle a grievance.

Senator DOUGLAS. So that the Taft-Hartley law gave to the Boeing Co. a legal technicality which it used to break the union.

Mr. BROWN. Absolutely, and there is no union for functioning purposes in that plant today, as far as our craft is concerned.

Senator PEPPER. Mr. Chairman, may I ask a question?

Mr. BROWN. one of the unfair labor practices on the part of labor set out in section 8 (b) (4) (D) is—

forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another labor organization or in another trade, craft, or class, unless such employer is failing to conform to an order or certification of the Board determining the bargaining representative for employees performing such work.

Now, that is made an unfair labor practice.

That all follows under the "(4)" which says that it is made an unfair labor practice for any union, labor organization, or its agents—

to engage in, or to induce, or encourage the employees of any employer to engage in, a strike, or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is—

now, what I read is not with respect to anything that may take place between employees and a third party, but between employees and employers. That pertains to the employees and their own employer; is that not right?

Mr. BROWN. Yes.

Senator PEPPER. Now, they are forbidden to strike, for example, with respect to the assignment of that work.

Mr. BROWN. That is correct.

Senator PEPPER. In section 303 (b) the right to sue the union is conferred for any damages that may ensue for a labor organization's doing or committing any of those unfair labor practices, and that one is in (4) on page 26 of section 303.

Now, in the first place, I want to ask whether the employer cannot effectively impair the position of the union by improperly assigning work away from, say, your mechanics to some cheaper labor in plants?

Mr. BROWN. That is possible under the language of that act.

Senator PEPPER. Yet, if the union acts as an unfair labor practice they can be proceeded against by the general counsel, and can be the subject of an injunction, and also the union can be the subject of a lawsuit under 303 (b) by the employer against the union.

Mr. BROWN. That is my understanding there.

Senator PEPPER. Do you find any comparable authority or any correlative opportunity where such an unfair labor practice on the part of management is the subject of a suit by the employees as is that case?

Mr. BROWN. I do not, and it was not intended as such by the authors of the act.

Senator PEPPER. As a matter of fact, do you know of any provision in the act where even a lock-out, a lock-out by management against labor, can be the subject of a lawsuit in the Federal court under the provisions of the Taft-Hartley law?

Mr. BROWN. I do not find it there.

Senator PEPPER. That is not made the subject of a suit by the Federal court by the union against their management; is it?

Mr. BROWN. No.

Senator PEPPER. That is all.

Senator HUMPHREY. I would like to ask Mr. Brown a general question that has been before this committee a number of times.

In your opinion, from your years of service in the labor movement, does the Taft-Hartley Act in any way impair or impede the ability of an organization such as yours to carry on organizational activities?

Mr. BROWN. Yes; it does.

Senator HUMPHREY. In what manner would you say that it does?

Mr. BROWN. It has put fear into the unorganized; it has made them very timid. Our problem with respect to organizing has been made more difficult and more expensive since the Taft-Hartley Act because the Taft-Hartley Act invites employer opposition, and because that opposition has become tremendously expensive to organize.

Senator HUMPHREY. What was the prevailing wage scale, for example, in a plant before effective organization activities, as compared with the wage scale following the signing of the contract between your Machinist Union and management?

Mr. BROWN. Well, that is difficult to give you a figure on, Senator. There have been cases where the first agreement negotiated, they have received as little as 5 cents an hour, and in other cases, as much as 25 or 30 cents an hour; all depending on the standard prevailing prior to organization.

Senator HUMPHREY. I see. Could you give us some idea as to the relative growth of your organization—growth or nongrowth—since passage of the Taft-Hartley Act?

Mr. BROWN. We have grown some since the Taft-Hartley Act, but at a tremendous expense. Possibly I can qualify that by saying that during 1948 our union expended for the activities of organization and service of membership, and to organize, approximately, we spent \$2,000,000 more than the receipts of that period.

Senator HUMPHREY. In order to do the job of organization?

Mr. BROWN. In order to retain organization and to develop organization in plants were they were unorganized, and there was a low rate, and there was a threat to the higher rate, organized shop.

Senator DONNELL. What do you spend all this money for, Mr. Brown?

Mr. BROWN. Increasing the field staff and making donations to local and district lodges to put on representatives, and for strike donations, attorneys' fees.

Senator PEPPER. Attorneys' fees has been pretty important during the Taft-Hartley law; has it not?

Mr. BROWN. Yes, sir.

Senator PEPPER. Lawyers are not for the repeal of the Taft-Hartley law. It would serve them very well. [Laughter.]

Mr. BROWN. Well, the lawyers are a pretty good organization, and in many cities they have got a closed shop.

Senator HUMPHREY. I was interested, Mr. Brown, in this matter where the company hired strikebreakers. This is in reference to your testimony on page 5 of your prepared statement, respecting the Great Lakes region, where your members were engaged in a strike for legitimate reasons.

Mr. BROWN. Yes.

Senator HUMPHREY. We have had a discussion with other witnesses about that section of the Taft-Hartley Act which permits the strikebreakers to be recognized as the negotiating union, despite the fact that the regular employees are on the outside and not permitted to vote.

This is one of the instances that we needed to have brought to our attention. I know I was quizzed at the time that we mentioned this, as to what evidence we had to substantiate the claim that the Act provided an opportunity for union-breaking.

Would you care to expand any more than you have in your prepared testimony? I notice that we are going into a period when there are a number of plants laying off workers. Do you believe that in a period of recession or, let us say, in a period of increased unemployment, the provisions of the Taft-Hartley Act which permit the legalizing of strikebreakers, do you think that would be disastrous to the union movement?

Mr. BROWN. As unemployment increases—and there is evidence that it is increasing—I am absolutely convinced that strikes would increase and, as strikes would increase, then the unemployed army increases; employers are going to be able to hire more strikebreakers, and if we are going to have a repetition of what happened in that plant up in Cleveland, in the Cleveland area, I can visualize, and I say that because of the attitude of some employers toward organized labor, that strikes will be inspired for no other purpose than to bring about a reoccurrence of what happened in that particular plant, to pack it full of strikebreakers and the employer would swear by all that is good and holy

that they are hired as permanent employees, building up material to convince the Board under the Taft-Hartley Act that they are permanent employees; and the Board, pursuant to the act, then will order an election, and if they do, as was done in that particular plant, supposedly going into an election to select a bargaining agency, so that they can bargain collectively, and then they vote for no union, and the employer then is free of unionism, and the workers must bargain individually.

Senator HUMPHREY. When do most of your contracts with the large management concerns expire?

Mr. BROWN. They expire on different times because in very few instances do we have contracts even covering the employers in a given community.

Senator HUMPHREY. I see.

Mr. BROWN. Not because we do not want a contract to cover all the employers in a given community, but because they resist that kind of a contract.

So, I would say that every day of the year we are negotiating contracts in some section of the country.

As I mentioned, I believe, before you came in, Senator, we have got contracts now with over 10,500 employers, and every day there are a certain number of contracts being renewed, and we are in conference.

Senator HUMPHREY. Isn't it true, Mr. Brown, that in certain of our major industries, a number of contracts expire in the months of April and May.

Mr. BROWN. Yes. There are a number in the spring of the year.

Senator HUMPHREY. I want to ask you a question. You have been in the labor-management field for a long time. You are a man of good reputation and surely of prolonged and extensive experience. We are deciding now on legislation here to replace the Taft-Hartley Act. I want that quite clear. We are deciding on legislation to replace the Taft-Hartley Act.

Senator DONNELL. In toto, Senator?

Senator HUMPHREY. In toto. It has already been repealed by the committee. [Laughter.]

Senator MORSE. That is as near as you will come to it. [Laughter.]

Senator HUMPHREY. The thing that I am concerned about, and I think there is a justifiable concern in the minds of many people, is what will be the effect upon the pattern of labor-management relationships in America if hearings on Taft-Hartley Act repeal and substitution of Senate bill S. 249, the Thomas bill are prolonged and if the debates are prolonged, and we do not make a decision on this act until sometime in April. Do you think that will have some effect upon what may happen in labor-management relationships?

Mr. BROWN. At the present time our representatives are negotiating new agreements, and are reporting that it is becoming more and more difficult to get management to accede to certain conditions which heretofore they granted with very little discussion.

Senator HUMPHREY. May I ask this question? I notice here on page 4 of your testimony that you remind us of a case involving a large aircraft-manufacturing industry. I suppose that was the Boeing case.

Mr. BROWN. Yes.

Senator HUMPHREY. Where you had had over a period of time very good, sensible relationships with management; following Taft-Hartley you had a very disagreeable set of circumstances that came to the forefront.

Mr. BROWN. Correct.

Senator HUMPHREY. There is an intimation and almost a direct statement in your testimony that management began to change its mind and began to toughen up, we might say, following Taft-Hartley; is that right?

Mr. BROWN. Before Taft-Hartley, when there was evidence that the Eightieth Congress, the majority of the Members of the Eightieth Congress were not in sympathy with the aims and purposes of organized labor, they became difficult. When the Taft-Hartley Act became the law of the land, you couldn't live with them.

Senator HUMPHREY. Do you think there may be some evidences from your observation of the labor-management scene that there may be such a stiffening of the economic spine of management between now, and, let us say, the time this law is repealed, as to precipitate some differences of opinion which may involve strikes?

Mr. BROWN. Yes; and it is my opinion that a good portion of the lay-offs is because of what employers believe may come out of this Congress. I am not only thinking of the task your committee is dealing with, but I am thinking about the tax problem.

Senator HUMPHREY. I have been concerned about this.

Senator TAFT. You mean they are afraid we will raise taxes?

Mr. BROWN. No; I believe this, Senator, that they are laying off people as a threat of what is going to happen if this Congress enacts laws that management does not like.

Senator TAFT. Well, in regard to taxes, do you think if they are taxed more heavily, that they will not be able to operate as well?

Mr. BROWN. They believe their net earnings will be reduced.

Senator HUMPHREY. From 21 billion down to 19 or 17? That would jeopardize the solvency of the companies?

Mr. BROWN. They still want to have the hog's share of the pie and they are going to fight before they give it up.

Senator HUMPHREY. It seems to me that one of the points we have discussed here in the committee is the extension of time. We have agreed on an extension of time to February 23 and, of course, we are hoping we can get a bill out of committee rather rapidly, and then we have been informed via the grapevine that there will be a considerable period of time for debate on the floor of the House and on the floor of the Senate.

Again I refer to you as an able and experienced labor leader, and ask you whether or not this extension will in a sense prejudice objective thinking about labor-management relationships and labor-management law?

Mr. BROWN. Mr. Senator, if this Congress enacts Senate bill 249 and the companion bill in the House, I say to you they have done a wonderful job in the interest of improving union-management relations.

Senator HUMPHREY. If they debate it for 8 or 10 weeks with a series of amendments, what do you think will happen in coal, steel, automobiles, and a few of the other big industries?

Mr. BROWN. The labor relations between management and unions is going to be constantly and continually strained, and it will be more

and more difficult to resolve differences on the basis of merit and the circumstances involved.

Senator HUMPHREY. You would say the evidence prior to the passage of the Taft-Hartley Act indicated that in that period of time——

Mr. BROWN. I would say that prior to the passage of the Taft-Hartley Act we did not experience that difficulty we are experiencing now, and God help us if this act is not repealed.

Senator HUMPHREY. I understood from your testimony that just prior to the Taft-Hartley law, when the Eightieth Congress came in, there was a feeling on your part that management had toughened up and was not nearly as conciliatory; is that correct?

Mr. BROWN. That is right. Prior to the enactment of the Taft-Hartley Act, because of the reports coming out of Washington of the viewpoint of the majority of the Members of Congress with respect to organized labor.

Senator HUMPHREY. Let me say a word about the reports coming out of Washington now. Over the week end I took the time and had the opportunity to review some of the reports coming out of Washington about what is going to happen on the Labor-Management Act of 1949, and since you are vitally concerned with it as one of the participants in the labor-management field, I think you should discount some of the reports coming out of Washington as to what is going to happen to this act.

The act may have a different title but have the same substance. I might say we might compromise by leaving titles on, but we will change the substance.

Mr. BROWN. Mr. Senator, I personally feel that the trade-unionists should not be concerned as to what this Congress will do because in my opinion the people on November 2 repudiated the Taft-Hartley Act.

Senator HUMPHREY. You feel that was part of the election?

Mr. BROWN. There is no question about that. Every man and woman who went to the ballot box——

Senator HUMPHREY. Direct your remarks to that side of the table; don't look at me.

Mr. BROWN. They knew that the repeal of the Taft-Hartley Act was one of the major issues.

Senator PEPPER. The working people of the country?

Mr. BROWN. Yes, or the plain people, and there are quite a few.

Senator MORSE. In regard to those issuing those reports over the week end, about which Mr. Humphrey spoke, they are not on our side.

Senator HUMPHREY. That is all.

The CHAIRMAN. Senator Taft.

Senator TAFT. Mr. Brown, is your organization part of the American Federation of Labor?

Mr. BROWN. Not at the present time.

Senator TAFT. It has been in the American Federation of Labor?

Mr. BROWN. It was affiliated with the American Federation of Labor prior to November 1945 for a period of 50 years.

Senator TAFT. 1945?

Mr. BROWN. 1945.

Senator TAFT. You left the American Federation of Labor. Why was that?

Mr. BROWN. We were suspended.

Senator TAFT. And you were suspended, why? Because of jurisdictional disputes with the carpenters' union?

Mr. BROWN. No; let me make this statement: I wish you would not press me for an answer because we have been negotiating to try to resolve our difficulties, and I am afraid if you ask me, I will be obliged to answer, and it is not going to help with the negotiations.

Senator TAFT. I will not press you, except to ask: Isn't it generally true that it arose out of jurisdictional disputes with the carpenters' union?

Mr. BROWN. No; that was not the issue.

Senator TAFT. Have you had jurisdictional disputes with the carpenters' union?

Mr. BROWN. Yes.

Senator TAFT. A good many of them?

Mr. BROWN. Yes.

Senator TAFT. In what respect?

Mr. BROWN. Because of their claim to represent those who install, erect, and repair machinery.

Senator TAFT. Has that led to strikes?

Mr. BROWN. Yes.

Senator TAFT. A good many of them in the past years?

Mr. BROWN. Not too many.

Senator TAFT. Would it be more or less since you left the American Federation of Labor?

Mr. BROWN. No; I would say there were not any more since we left the American Federation of Labor.

Senator TAFT. Have you prevailed usually in those disputes with the carpenters since leaving the American Federation of Labor?

Mr. BROWN. In some instances, yes, and in some instances, no.

Senator TAFT. Can you give me the exact number of members in your union as of January 1, 1947, January 1, 1948, and January 1, 1949?

Mr. BROWN. I couldn't give the exact figures.

Senator TAFT. Can you get them?

Mr. BROWN. Yes.

Senator TAFT. Can you read them into the record?

Mr. BROWN. Yes.

Senator TAFT. Are there more members as of the 1st of January 1949 than as of the 1st of January 1947?

Mr. BROWN. Will you repeat that, please?

Senator TAFT. The last 2 years, has there been an increase in the total membership of the union?

Mr. BROWN. Yes.

Senator TAFT. A substantial increase?

Mr. BROWN. That is hard to say because the job to organize becomes more expensive.

Senator TAFT. I understand that.

Mr. BROWN. The membership has been fluctuating, but we have enjoyed a net gain.

Senator TAFT. Hasn't it been a quite substantial net gain for the last 2 years?

Mr. BROWN. Not when you consider the effort put forth to bring about the increase in membership.

Senator TAFT. I am trying to get the numbers, how many more members you have now than you had 2 years ago. Is it 50,000 or 20,000 or what?

Mr. BROWN. In fairness to you and myself, I think I should make this statement: There is a difference when if today we must spend \$5 and utilize the services of three representatives when heretofore we would spend \$1 and maybe use two representatives to get a certain number of members.

Senator TAFT. This is an era of inflation and we all find increased expense in these matters. I am trying to find out what that increase has been in the last 2 years.

Mr. BROWN. I will be glad to get that.

Senator TAFT. You will put into the record definite figures on membership?

Mr. BROWN. Yes.

Senator TAFT. Isn't it true you have taken over some plants from the CIO during those 2 years?

Mr. BROWN. It is possible there may be some plants where the employees of the plant have designated our union as bargaining agent where heretofore the CIO was the bargaining agent.

Senator TAFT. That was usually because the CIO people failed to sign the anti-Communist oath?

Mr. BROWN. No. As far as I know, there is not one instance where our union stepped in and responded to a call from the employees of the plant because the CIO could not qualify under the Taft-Hartley Act.

Senator TAFT. How did you happen to take over these CIO plants? Did they get dissatisfied with the CIO on some other ground?

Mr. BROWN. Yes.

Senator TAFT. Did you have any jurisdictional fights then in those plants?

Mr. BROWN. Well, it all depends on what you would term a jurisdictional controversy. I wouldn't term it a jurisdictional controversy where the employees of a union make known a desire to change their bargaining agent, and the unions believe they have given the employees an opportunity to designate that particular union as the bargaining agent. I wouldn't term that a jurisdictional dispute.

Senator TAFT. But you were able to move in and take over some members formerly with the CIO?

Mr. BROWN. There are a few cases where the employees of certain plants have designated our union as a bargaining agent where heretofore not only CIO but A. F. of L. were bargaining agents.

Senator TAFT. This Boeing case in Seattle, what was the cause, what was the basis of that strike? Was it wages or seniority?

Mr. BROWN. There was an effort on the part of the management to change the seniority rule, but I believe the matter of wages was the principal issue.

Senator TAFT. Didn't Dave Beck of the teamsters try to take the plant away from you?

Mr. BROWN. That is publicly known.

Senator TAFT. So that possibly this strike was to some extent continued or prolonged by this jurisdictional fight between the teamsters and the machinists?

Mr. BROWN. I would say the strike was prolonged by reason of another union endeavoring to get membership in that plant with a view of eventually becoming a bargaining agent.

Senator TAFT. That is all.

Senator PEPPER. Senator Taft, the question arose awhile ago as to whether the court—

Mr. BROWN. May I add to that question that that activity on the part of that union was with the knowledge and approval of management.

Senator TAFT. You mean Dave Beck is running a company union there?

Mr. BROWN. There were men in that union in the plant mingling with the employees, soliciting membership during working hours.

Senator PEPPER. There was some question as to whether the damage suit brought against Mr. Brown's union was brought in the State or Federal courts. I have been handed a memorandum stating it was in the United States District Court, Western District of Washington, Northern Division, breach of contract.

Senator MORSE. To the extent the Boeing case involved a jurisdictional dispute, were you willing to arbitrate it?

Mr. BROWN. Will you repeat that?

Senator MORSE. To the extent the Boeing case involved jurisdictional disputes, you were willing to arbitrate it, were you not?

Mr. BROWN. We were willing to arbitrate the difference between ourselves and management, but there was a question of jurisdiction not involved with the negotiations part of the strike.

Senator MORSE. Would you be willing to arbitrate a jurisdictional dispute?

Mr. BROWN. I am not prepared to answer that because I don't know whether the employees there would be willing or whether our executive council would be willing.

Senator MORSE. I am not referring to that particular dispute but to jurisdictional disputes generally. Would you be willing to arbitrate them if you can't work out your own machinery with the other union for peaceful settlement short of a stoppage?

Mr. BROWN. I wouldn't know of what you refer to as jurisdictional disputes unless you have in mind the claim made by the teamsters. There was no other dispute over jurisdiction.

Senator MORSE. I say, aside from the Boeing case, speaking of jurisdictional disputes generally where your union is in conflict with the carpenters or any other union in regard to the assignment of work by an employer and a work stoppage actually occurs, would you be willing to agree to an arbitration procedure for such a dispute?

Mr. BROWN. I would say that in any instance where a decision has not already been made within the labor movement with respect to jurisdiction, I personally would be willing to take my chance on an arbitration.

Senator MORSE. Of course, in regard to those instances in which the house of labor has reached some decision on the subject matter it is then clearly a case where the house of labor, in the public interest, ought to enforce its decision without a work stoppage, don't you think so?

Mr. BROWN. I agree with you.

Senator MORSE. While I am on the arbitration question, Mr. Brown, in your prepared statement you talk about free arbitration, and I

certainly share the point of view that arbitration in labor disputes should not be expensive and should not cost the union so much that it breaks the treasury of the union.

However, on what theory do you think that the taxpayers ought to supply free arbitration to employers and unions over questions involving a labor contract?

Mr. BROWN. I would say when Government tells labor that you must arbitrate, then Government should pay the expense of arbitration.

Senator MORSE. Does the bill that the gentlemen on the other side are proposing tell you that you must arbitrate?

Mr. BROWN. I don't know.

Senator MORSE. Well, I was wondering. You must have some basis for asking for free arbitration in this prepared statement.

Mr. BROWN. Because the Director of the Conciliation Service, the last Director prior to the change as a result of the Taft-Hartley Act, it was under his administration that the paid arbitrator came into the picture.

I think his name was Warren, and we vigorously protested that because in the light of experience we find that where arbitration is a compulsion, management does not act in good faith to resolve differences. Where they know that arbitration is voluntary, they will do their job at the conference table to find the answer to resolve those differences.

Senator MORSE. If I am right, I think the policy you are referring to is that policy of the Department of Labor which was an optional policy, I believe, where under Director Warren the Conciliation Service agreed that if the parties desired, they could appoint an arbitrator as well as a conciliator and they set up an arbitration division within the Conciliation and Mediation Service, but if you accepted one of their arbitrators, he acted independent of the Department of Labor and you paid him for his services.

Is that the procedure you had in mind?

Mr. BROWN. What we had in mind, Mr. Senator, was that if we voluntarily agreed to arbitrate, we are willing to pay the arbitrator, but when Government says you must arbitrate, then Government should pay the bill.

Senator MORSE. That was not the interpretation I made but I am glad I asked the question. I am not going to tell you you have to take an arbitrator unless we get into a situation where you can't work out your own jurisdictional disputes short of a work stoppage.

Prior to the Taft-Hartley law, Mr. Brown, you had many closed-shop contracts with employers, did you not?

Mr. BROWN. We did have a number, but we had more union shop contracts.

Senator MORSE. You had some closed-shop contracts?

Mr. BROWN. Oh, yes.

Senator MORSE. In the instances where you had closed-shop contracts, have any of those contracts expired since the passage of the Taft-Hartley law?

Mr. BROWN. Yes; naturally they expire, because the Taft-Hartley Act made the closed-shop contract no longer permissible.

Senator MORSE. There was a carry-over period for the life of the contract, was there not?

Mr. BROWN. Yes.

Senator MORSE. Now, as those contracts expired, you negotiated new agreements within the terms of the Taft-Hartley law, did you not?

Mr. BROWN. Yes.

Senator MORSE. Have the actual hiring practices of the employers under the new agreement changed materially under the new contract?

Mr. BROWN. Yes.

Senator MORSE. So that you find now that under the new contract many employers do not seek their workers, as they previously sought them, through your union halls in those instances in which you had a closed shop?

Mr. BROWN. That is correct.

Senator MORSE. So in your particular union the anti-closed-shop provision of the Taft-Hartley law has, in fact, changed the hiring practice of employers?

Mr. BROWN. Definitely.

Senator MORSE. And in case of your negotiations with employers there is no evidence that by a gentleman's understanding or by winking at the union-shop provision of the contract the employer would go ahead and make use of the union hiring hall as he did before?

Mr. BROWN. I can truthfully say I don't know one solitary such instance.

Senator MORSE. Now, in regard to this increase in the number of union members in your union since the passage of the Taft-Hartley law, could you supply us with a comparison, for whatever such a quantitative analysis is worth—and I don't think it is much, but the record is littered with many quantitative comparisons—could you supply us with statistics showing the number of new locals that your union formed for the 2-year period prior to the Taft-Hartley law and the number of new locals that your union has formed since the passage of the Taft-Hartley law?

Mr. BROWN. I will do that, Mr. Senator.

Senator MORSE. What is your general opinion, prior to the preparation of those statistics, as to what they will show? Have you increased the number of new locals at a more rapid rate since the passage than before the passage in a corresponding period of time?

Mr. BROWN. With less rapidity, so to speak.

Senator TAFT. It seems to me it would be a good thing if Mr. Brown went back to a time 5 or 6 years ago.

Senator MORSE. That would be satisfactory with me. Go back to 1940 and show the growth of your union under the Wagner Act from 1940 on up.

Senator DONNELL. How about 1935 when the Wagner Act went into effect?

Senator MORSE. Yes; the beginning of the Wagner Act in 1935. I have no further questions, Mr. Chairman.

The CHAIRMAN. Senator Donnell.

Senator DONNELL. Mr. Brown, Senator Morse asked you a question a few minutes ago, something about some provision being in the act that is now pending here under consideration, and you said you didn't know. What was it that you didn't know?

Mr. BROWN. You will have to refresh my memory about that.

Senator DONNELL. He asked a question about whether or not some provision about arbitration was in the act that is being proposed here.

Senator MORSE. Whether it requires arbitration.

Senator DONNELL. Whether this Thomas bill requires arbitration, and you said you didn't know. Do you know?

Mr. BROWN. I don't follow you, Senator.

Senator DONNELL. Here is the act that is under discussion right here, this bill, S. 249. Up at the top it says "Committee print, amendments in the nature of a substitute." He asked you whether or not there is any provision in there requiring arbitration, and you said you didn't know. Do you know or do you not?

Mr. BROWN. I don't think there is any requirement.

Senator DONNELL. You don't think there is. Have you read this bill?

Mr. BROWN. I will recall that statement.

Senator DONNELL. I just want to know if you read the bill.

Mr. BROWN. Yes.

Senator DONNELL. When did you read it?

Mr. BROWN. It has been some time ago.

Senator DONNELL. About how long ago?

Mr. BROWN. The last time I think I read it was 3 or 4 weeks ago.

Senator DONNELL. You read it before it was prepared, didn't you?

Mr. BROWN. I beg your pardon?

Senator DONNELL. You read it then before it was prepared.

Mr. BROWN. It may not be quite that long.

Senator DONNELL. Well, do you think it was 3 or 4 weeks ago? That is your best recollection?

Mr. BROWN. Maybe only 2 weeks.

Senator DONNELL. Where did you see it first?

Mr. BROWN. I believe I saw a typewritten copy before it was printed if I am not mistaken.

Senator DONNELL. Who showed you that typewritten copy?

Mr. BROWN. I can't recall.

Senator DONNELL. Where were you when you read it?

Mr. BROWN. At my office.

Senator DONNELL. Where is your office?

Mr. BROWN. In the Machinists Building.

Senator DONNELL. Machinists Building?

Mr. BROWN. This city.

Senator DONNELL. Where did you get that typewritten copy?

Mr. BROWN. It was lying on my desk.

Senator DONNELL. You don't know who brought it in?

Mr. BROWN. No.

Senator DONNELL. It dropped in out of thin air?

Mr. BROWN. Many documents get on my desk and I don't know where they come from.

Senator DONNELL. You found it there and read it?

Mr. BROWN. Yes.

Senator DONNELL. What is your very best recollection as to when this was you found it? How long ago?

Mr. BROWN. Senator, I would like to cooperate with you, but I couldn't definitely say.

Senator DONNELL. If you can't definitely say, do you think it was before January 29, 1949?

Mr. BROWN. Before January when?

Senator DONNELL. Twenty-nine.

Mr. BROWN. It is possible.

Senator HUMPHREY. What is the purpose of this examination?

Senator DONNELL. I have a right to develop the purpose.

Mr. BROWN. I can't definitely say.

Senator DONNELL. You read that typewritten copy. Have you ever read the printed copy?

Mr. BROWN. Yes.

Senator DONNELL. When did you read it?

Mr. BROWN. I can't give you the exact time, Mr. Senator.

Senator DONNELL. About how long ago? A week, 2 weeks, 3 weeks?

Mr. BROWN. It may be 2 weeks.

Senator DONNELL. Might it be 3 weeks?

Mr. BROWN. More or less; I don't recall.

Senator DONNELL. Where were you when you read it?

Mr. BROWN. In my office.

Senator DONNELL. How did you get hold of it?

Mr. BROWN. It was laid on my desk.

Senator DONNELL. Who laid it there?

Mr. BROWN. I don't know.

Senator DONNELL. It just dropped in?

Mr. BROWN. Somebody laid it on the desk.

Senator DONNELL. Very well. You found it there?

Mr. BROWN. Yes.

Senator DONNELL. You didn't know it was coming. Now, Mr. Brown, when was this statement of yours prepared that you have given us here today?

Mr. BROWN. That was prepared about a week ago.

Senator DONNELL. About a week ago. Where was it prepared?

Mr. BROWN. In the Machinists Building, with myself and associates.

Senator DONNELL. Who prepared it?

Mr. BROWN. Myself and the general vice president of the organization. We all made contributions, and there were members of the research department.

Senator DONNELL. About how many people participated in the preparation of this?

Mr. BROWN. I think about four made suggestions and proposals and furnished memos.

Senator DONNELL. Did you write any of it yourself at all?

Mr. BROWN. Yes.

Senator DONNELL. Did you dictate any of it?

Mr. BROWN. Part of it.

Senator DONNELL. Do you remember any specific part you dictated? For instance, let me ask you on page 7 about this language:

Any insinuation that the Labor Department is biased is an unfair accusation and carries a connotation of manipulation of a Federal agency.

Did you dictate that?

Mr. BROWN. That came to me in the form of a memo.

Senator DONNELL. Let me ask you about this sentence on page 3:

In many instances, the stimulated opposition of employers became so intense that strikes which would not have otherwise occurred became inevitable.

Did you prepare that? Did you dictate that?

Mr. BROWN. At the moment I couldn't say, Senator, because I was writing memos and rewriting memos and accepting memos from others,

and I put them together, and I finally got a statement that I thought would be suitable for presentation.

Senator DONNELL. When you get over here to pages 6, 7, and 8, you start in with:

We offer no objection to section 202.

We cannot agree that a commissioner of conciliation should not serve as an arbitrator as outlined in section 203 if the parties agree that he should serve.

You take it up section by section. Did you dictate that?

Mr. BROWN. Those were my views that I expressed, but who jotted them down in memorandum form I can't say.

Senator DONNELL. You don't actually know what proportion of this statement you prepared yourself or had anything to do with the dictation of, do you?

Mr. BROWN. Offhand, I couldn't definitely say.

Senator DONNELL. Who was the one who actually prepared the great bulk of this statement?

Mr. BROWN. I just told you, Mr. Senator, it is the net result of views expressed by myself or the general vice president and by one or two members of the research department.

Senator DONNELL. Was it dictated to some stenographer who took it down in shorthand and then transcribed it?

Mr. BROWN. It was written and rewritten.

Senator DONNELL. Who dictated the first draft of this statement to the stenographer who took it down? Did you do it?

Mr. BROWN. I can't really remember whether I was the first one to dictate the first copy. I can't say.

Senator DONNELL. You wouldn't say you did?

Mr. BROWN. No; I am not prepared to say it was me or someone else. I couldn't say.

Senator DONNELL. You don't remember that?

Mr. BROWN. No.

Senator DONNELL. Yet that was a week or two ago.

Mr. BROWN. Senator, if you will pardon me——

Senator DONNELL. Is that right? About a week or two ago?

Mr. BROWN. About a week ago.

Senator DONNELL. And you can't remember now whether you were the fellow who dictated the first draft or not?

Mr. BROWN. No; and if you will let me explain, I think I can convince you or have you understand.

The duties of my office are such that I have various duties. We have a field staff of over 600 men. We have contracts with over 10,000 employers, and there is a variety of correspondence and a variety of tasks, and I am continually dictating on one subject or the other, and at the moment I can't recall just which part I dictated or rewrote or reedited. Had I known I was going to be called on to furnish the information, I would have been prepared.

Senator DONNELL. Do you remember whether you dictated any of it?

Mr. BROWN. Yes.

Senator DONNELL. But you can't pick out any particular portion of it?

Mr. BROWN. Yes; I can.

Senator DONNELL. Just pick out one sentence, and I will go on.

Senator HUMPHREY. I might remind the witness that this is not a court of law and there is no prosecuting attorney, even though it might seem that way.

Senator DONNELL. I have a right to examine this witness in my own way, and I will do it.

Mr. BROWN. A good portion of the third paragraph.

Senator DONNELL. A good portion of it?

Mr. BROWN. Yes.

Senator DONNELL. Which is the third paragraph?

Mr. BROWN. I must confess I can't say because it has been written and rewritten too often.

Senator DONNELL. Where was it mimeographed?

Mr. BROWN. In the Machinists Building.

Senator DONNELL. And brought over here?

Mr. BROWN. Yes. In the office of the International Association of Machinists.

Senator PEPPER. Mr. Brown, will you just state to the committee whether or not it is your statement and you subscribe to all the sentiments expressed in it?

Senator DONNELL. Of course he does. He subscribes to them without knowing what part he dictated.

Mr. BROWN. I want to cooperate with you, but try to remember this: When two or three or four representatives of a business institution sit down and exchange views and offer suggestions and there are notes made and later on they are transcribed and then we get together and we assemble them and then some of us make suggestions and there are changes made and they rewrite and reassemble, and that is done several times, it is difficult at times to say whether this is yours or whether it is somebody else's with certainty, whether it has a new dress on. I wish I had known that these questions were to be asked, because I would have given it to you line for line.

Senator DONNELL. I had an idea that if it was dictated within a week or two, you would have some recollection of what you dictated.

Mr. BROWN. If it was my only task; but I have so many duties and dealings with so many phases of the activities of the organization that I wouldn't attempt to keep it in my mind.

Senator DONNELL. You dictate a lot of letters?

Mr. BROWN. Yes.

Senator DONNELL. You probably would remember some of the letters you dictated in the past 2 weeks; would you not?

Mr. BROWN. Yes; because I am entirely responsible for those letters.

Senator DONNELL. Mr. Brown, referring you to these figures that you are going to give us for the record about your growth, et cetera, I am not going to try to pin you down to just how many exactly you have, but if somebody this morning had asked you, "Mr. Brown, how many members does the International Association of Machinists have?" what would you have said?

Mr. BROWN. I would say anywhere from 630,000 to 650,000 members, and maybe beyond that figure.

Senator DONNELL. Anywhere from 630,000 to 650,000, and maybe beyond?

Mr. BROWN. Yes.

Senator DONNELL. Do you have any idea how far above it might be?
Mr. BROWN. No.

Senator DONNELL. You read the Joint Labor Committee report, didn't you, filed December 31, 1948?

Mr. BROWN. Very possibly I did, I can't recall.

Senator DONNELL. You can't recall whether you read this, this book of 110 pages? You can't remember that?

Mr. BROWN. Mr. Senator, for a number of years I have had an eye condition so that I do not read more than I have to.

Senator DONNELL. You certainly would remember if you had read a book of 110 pages, then, with an eye condition; would you not?

Mr. BROWN. I can't say if I have. Will you hand it to me?

Senator DONNELL. Yes, this book here [handing]; have you read it?

Mr. BROWN. Not in its entirety. I have asked one of my associates to mark certain paragraphs that he believed I should become familiar with, and I did read excerpts. I wouldn't attempt to read it in its entirety because of my eye condition.

Senator DONNELL. Very well. You don't have to read all of that, of course, but I notice on page 29 of this book it says:

The largest of the independent or unaffiliated unions, the machinists, climbed to a new peak of 625,000.

They weren't so far off in that report.

Mr. BROWN. Who is responsible for that statement?

Senator DONNELL. I don't know who is responsible for it.

Senator HUMPHREY. Let's find out who was responsible. Who wrote that?

Senator DONNELL. I don't know.

Mr. BROWN. Mr. Senator—

Senator DONNELL. Just a moment. I expect my statements to be believed, and this audience out here, if they don't believe it, I expect the chairman to enforce the rules of the Senate with regard to them.

Now, I want to state what I do know about this. Where is Mr. Shroyer? Oh, there you are. I know that Mr. Shroyer had a great deal to do with the preparation of this report. I know he testified himself the other day that on a certain page he wrote that part, and Mr. Shroyer has told me of his great participation in this work. My impression was that a great part of this was the work of Mr. Shroyer.

Can you tell us, Mr. Shroyer, this report, this whole report here, 110 pages—

Senator PEPPER. Who wrote that page?

Senator DONNELL. Here on page 29, the statement reads:

The largest of the independent or unaffiliated unions, the machinists, climbed to a new peak of 625,000.

Who wrote that?

Mr. THOMAS E. SHROYER. That particular paragraph was written by Ralph Pickering of my staff. He went up to the Bureau of Labor Statistics, I asked him to go up there and get as much material as he could on union membership.

Senator DONNELL. Do you know if I ever met Mr. Ralph Pickering?

Mr. SHROYER. No.

Senator DONNELL. I never knew who wrote this sentence, did I?

Mr. SHROYER. That is right.

Senator DONNELL. I was asking you, Mr. Brown, about this statement here:

The largest of the independent or unaffiliated unions, the machinists, climbed to a new peak of 625,000.

I think they are talking about January 1948; aren't they, Mr. Shroyer?

Mr. SHROYER. That is right.

Senator DONNELL. They aren't so badly off, are they?

Mr. BROWN. That is not a correct statement. The peak of the membership was during the war at 750,000.

Senator DONNELL. You have told us what you would have said this morning as to your membership being 630,000 to 650,000 and maybe more. How many more would you think you might have?

Mr. BROWN. I wouldn't be able to say.

Senator DONNELL. Would it be 750,000?

Mr. BROWN. No.

Senator DONNELL. Would it be up to 700,000?

Mr. BROWN. It might be five or ten thousand more.

Senator DONNELL. That is all right; say somewhere around 630,000 to 660,000; is that a fair estimate?

Mr. BROWN. Approximately, yes.

Senator DONNELL. I don't want to pin you down to the exact number. Maybe somebody died today or joined today. Mr. Brown, if somebody had asked you this morning what was the approximate membership of your union, the one I just asked you about, the International Association of Machinists, on the 23d day of June 1947, what would you have answered them, that is, this morning, in response to that question? That was the date the Taft-Hartley law was passed over the President's veto by the Senate.

Mr. BROWN. I couldn't answer that question.

Senator DONNELL. Was it less or more than 630,000?

Mr. BROWN. I want to cooperate with you, but I can't say because our membership has been fluctuating due to plants closing down and because of the problems caused by the Taft-Hartley Act.

Senator DONNELL. It has been gaining, though, right along since the passage of the Taft-Hartley Act?

Mr. BROWN. Not continually.

Membership has been receding and then they bounce back again.

Senator DONNELL. They bounce back higher than they had bounced back before?

Mr. BROWN. At times, yes.

Senator DONNELL. Today, is the membership greater or less than it was when the Taft-Hartley Act went into effect?

Mr. BROWN. I can't tell you that.

Senator DONNELL. That is perfectly all right. You are going to give us that information.

Now, there are quite a number of statements made here in this written statement of yours, and I won't take you down the line on every one, but it seems you had a whole lot of assistance. How many people helped on this eight-page statement?

Mr. BROWN. Four or five sat with us when we were discussing this problem and made suggestions and jotted down memos.

Senator DONNELL. Four or five in addition to yourself?

Mr. BROWN. Including myself.

Senator DONNELL. Four or five including yourself.

Now, for instance, here on the first page is a statement at the bottom of the page talking about the period prior to the Wagner Act. That is prior to 1935, I take it; is that right?

Mr. BROWN. Yes.

Senator DONNELL. The last sentence says:

In many instances, those who controlled credit denied credit to employers who were dealing fairly with the labor unions representing the workers.

Did you dictate that?

Mr. BROWN. I believe I did.

Senator DONNELL. Can you tell us one instance that occurred? Can you give us the names?

Mr. BROWN. At the moment I cannot tell. Let me answer it this way: Our representatives in the field reported from time to time they met with management, and management said, "We would like to do business with you but if we do, our credit will be cut off at the bank, and we have got to say "No." That was reported a number of times.

Senator DONNELL. To you personally by your field representatives?

Mr. BROWN. In correspondence to headquarters, yes. In the staff conference, our business representatives so reported.

Senator DONNELL. Can you tell us the name of one employer to whom credit was denied, just one?

Mr. BROWN. Let me answer it this way—

Senator DONNELL. I just want the name; that is all I want.

Mr. BROWN. I wish you would let me qualify that answer; if you will.

Senator DONNELL. Certainly; go ahead.

Mr. BROWN. During World War I and for some time after that I was the representative of our organization in the city of Newark, N. J., and I would say that at least 30 firms that I know of that I can't mention one by name told our committeemen, told our shop stewards, that they cannot do business with the union because "If we do we can't get credit with the bank."

I am being honest when I say I can't mention the names because those things don't stick with you.

Senator DONNELL. Very well, you can't remember a single solitary name of all these referred to under this appellation; you can't remember a single name. Is that right?

Mr. BROWN. At the moment, I can't.

Senator DONNELL. Let me ask you another thing.

Senator PEPPER. Are you passing from that point?

Senator DONNELL. It is an analogous point.

Senator PEPPER. I wonder if the Senator will allow me to ask a question.

Senator DONNELL. Yes.

Senator PEPPER. In case it were proved that a bank made any such conditions, is there any provision in the Taft-Hartley law that would permit the union to sue the bank?

Senator DONNELL. Let's go on. You also said in your testimony that it was rumored around that this bill, S. 249, the one you got that typewritten copy of from an unknown source 2 or 3 weeks ago—and, by the way, if you got it 3 weeks ago, it was before it was printed,

since it was printed January 29, 1949, which would have been 17 days ago.

Now I was just going to say you said it had been reported around that this, line by line—you made it graphic and definite—line by line, it was written by the NAM, the National Association of Manufacturers.

Do you have any knowledge of a single solitary line that you could actually go on the witness stand and testify that it was written by anybody representing the National Association of Manufacturers?

Mr. BROWN. I can testify as to what influenced that language and that a statement was made by a Member of the House.

Senator DONNELL. Who was the Member of the House?

Mr. BROWN. I will be able to furnish you that, but I can't remember it.

Senator DONNELL. What is the matter with your memory here, sir?

Mr. BROWN. I don't remember.

Senator DONNELL. You are not confused; you are perfectly at home.

Mr. BROWN. I will furnish you his name if you doubt my statement. It is a matter of record in the Congressional Record.

Senator DONNELL. What did he say?

Mr. BROWN. I beg your pardon?

Senator DONNELL. What did he say?

Mr. BROWN. As near as I can recall, he said in substance that the Taft-Hartley bill, sentence by sentence, paragraph by paragraph, was written by the National Association of Manufacturers.

Senator TAFT. Of course, he didn't use the words "Taft-Hartley." He used the word "Hartley." He was talking about the House bill, not about the Senate bill, or about the conference bill. Is that right?

Mr. BROWN. I think you are correct.

Senator DONNELL. Mr. Brown, I am going to ask this of Mr. Shroyer.

Mr. Shroyer, you were counsel for this committee in the preparation of the Taft-Hartley bill?

Mr. SHROYER. That is right.

Senator DONNELL. Do you know of a single, solitary line, syllable, character, or piece of punctuation in it that was, to your knowledge, furnished to you or dictated to you or written by any agent of the National Association of Manufacturers?

Mr. SHROYER. None.

Senator DONNELL. There was none. Did they have a witness or two who testified here?

Mr. SHROYER. Two witnesses.

Senator DONNELL. Just like labor unions testified, or anybody else that was interested?

Mr. SHROYER. That is right.

Senator DONNELL. Did you ever meet any representatives or lawyers of the National Association of Manufacturers in regard to what should go into this bill?

Mr. SHROYER. I never met any of them.

Senator HUMPHREY. Did any of the members of the committee meet any lawyer of the National Association of Manufacturers?

Senator DONNELL. I didn't.

Senator TAFT. I think they appeared with the witnesses, and I think probably we shook hands with them.

Senator HUMPHREY. One meets lawyers from all sides of the fence.

Senator DONNELL. So far as I can observe, there is quite a difference here between these vague rumors about the National Association of Manufacturers guiding the pen down the line and the facts of the case, that they didn't guide anything. They testified as everybody else did.

Senator PEPPER. Will the Senator yield?

Senator DONNELL. Yes.

Senator PEPPER. There is the certificate by the Clerk of the House of Representatives, John Andrews, appearing on page 30 of the Taft-Hartley Act:

I certify that this act originated in the House of Representatives.

It is signed "John Andrews, Clerk."

When the President vetoed the act he had to send it back to the House of Representatives, because that is where it did originate.

What Mr. Brown is saying could well be the truth as it was authenticated by the statement in the House. I certainly have too much respect for the members of this committee and for the Senator from Ohio to believe any such accusation with regard to the Senate bill.

Senator TAFT. May I make a statement?

The CHAIRMAN. Yes.

Senator TAFT. I was chairman of the committee, and I suppose every member of the committee introduced a bill.

Senator DONNELL. I did not.

Senator TAFT. Everybody else did. When we got through with the hearings, we asked Mr. Reilly and Mr. Shroyer to draw up a bill. We indicated what we wanted. It was a kind of a draft bill.

Senator DONNELL. Was that after the bill came from the House?

Senator TAFT. No. We didn't have a House bill before us at any time—that is, this committee. After that, we asked Mr. Reilly and Mr. Shroyer, counsel for this committee, to carry out the ideas which the committee had expressed. Then, this committee amended that bill in 10 or 12 respects; and after they got through with it, they authorized me to introduce it as the representative of the committee. It was a committee bill under the rules of the Senate.

After it reached the floor of the Senate and after it was considered without any reference to the House, at the end of the consideration in the Senate, my recollection is that the House had then passed a bill, which came over. We struck out the entire House bill and substituted the Senate bill for the House bill and passed that.

Then, it went to conference. In conference, the conference bill finally adopted was based substantially on the Senate bill with certain things taken out at the demand of the House and certain things put in; certain features of the House bill. I would say that the general structure of the bill followed the Senate bill, although there were some substantial differences made in conference, and I don't think they were improvements, if you want my personal opinion.

Senator DONNELL. Would you say, Senator Taft, whether or not the majority of the actual language in this bill and the actual phrasing of the Taft-Hartley Act originated in the Senate or in the House?

Senator TAFT. I would say the general structure originated here, and I would think the majority of the wording. I might say, furthermore, that the bill as recommended out by the Senate committee, S. 1126, had the support of 11 members of the 13 on the committee.

Senator DONNELL. How many Democrats were included in that 11?

Senator TAFT. Three Democrats and eight Republicans.

Senator PEPPER. On that point, Senator, I think they ought to speak for themselves, but there must have been something added to this bill. While I was not one of those who voted for it in the committee, there must have been something that happened to this bill when it got on the floor, because I know there were Senators who voted for the bill in the committee but who voted against it on the floor.

Senator TAFT. There were four amendments put in on the floor, amendments of some importance. One of them was the suit provision, 302 or something like that. I don't say there weren't substantial changes made after it left the committee. I only say that the general structure of the bill was written here and not by the National Association of Manufacturers.

Senator DONNELL. Did you ever see a representative of the National Association of Manufacturers or any of them in here preparing or dictating or assisting in the preparation of the Taft-Hartley law?

Senator TAFT. No; I did not.

Senator DONNELL. You were around at those meetings pretty generally, were you not?

Senator TAFT. Yes.

Senator MORSE. Will the Senator yield?

Senator DONNELL. Yes.

Senator MORSE. I would like to make this comment as a supplement to Senator Taft's statement. I think Senator Taft made an accurate statement as to the history of this bill in our committee. I would add this: That although Mr. Reilly and Mr. Shroyer did prepare what was known as a rough draft of the committee bill, Senator Ives and his assistants and I with my assistant worked on various provisions as amendments to the bill that was drafted by Messrs. Reilly and Shroyer, and by close votes in the committee, as the record shows, 7-6 or 8-5, the provisions that Senator Ives and I drafted were substituted for some of the provisions that Messrs. Reilly and Shroyer drafted or by the same votes we struck certain provisions that Messrs. Shroyer and Reilly drafted and as a result of that, by a combination of the legislation which Senator Ives and I had introduced and the bill which Messrs. Reilly and Shroyer had drafted for the committee, we came out of committee with a vote of 11-to-2 for the committee bill.

Senator TAFT. S. 1126, which was that bill, is set out in the second column of this prepared bill, except that the part put in on the floor of the Senate appears in brackets under S. 1126.

Senator DONNELL. If I might ask Mr. Brown two or three short questions before being interrupted further, I would appreciate it. I don't want to lose the connection here.

Mr. Brown, you say that this statement that you have read here today was prepared within the last week or two?

Mr. BROWN. Yes.

Senator DONNELL. Has your union, the International Association of Machinists, had a national meeting of any kind since the preparation of that document at which it has been exhibited to them and at which they have passed on whether they agree with it?

Mr. BROWN. No.

Senator DONNELL. How many of your members of your union have ever seen this document, your statement, which you read here today?

Mr. BROWN. None outside of our general office.

Senator DONNELL. How many people is that?

Mr. BROWN. Well, that may have been read by possibly a dozen or 15 members and people around in the office.

Senator DONNELL. Some of them are not even members?

Mr. BROWN. I am referring to members.

Senator DONNELL. Twelve or fifteen?

Mr. BROWN. Yes.

Senator DONNELL. So of your six hundred and thirty to six hundred and sixty thousand members, about 12 or 15 of those members are all who have seen this statement with which you came here today?

Mr. BROWN. You are absolutely correct.

Senator DONNELL. I yield to the Senator from Minnesota.

Senator HUMPHREY. I thought we ought to get another authoritative statement on what transpired prior to the Taft-Hartley Act and the persons who were involved in it. I think here is a statement coming from one of the authors, contained in a book entitled "Our New National Labor Policy," by ex-Congressman Hartley, and on page 62 I would like to read what is contained there. I do not want to say I subscribe to even the first line, however.

Senator DONNELL. You tell us which ones you subscribe to.

Senator HUMPHREY. All right.

Senator DONNELL. What is the first line?

Senator HUMPHREY. Now that you remind me, I think I do subscribe to the first line, which reads:

The Senate of the United States traditionally has been slow to follow shifts in public sentiment.

I wasn't going to subscribe to that, but you forced my hand. To continue:

Students of Government have ascribed this tendency to the 6-year term which retains a Senator in office for several years after the basic issues on which he may originally have been elected have ceased to be significant.

I will just pause for a moment there. Next is:

While the entire membership of the House of Representatives faces an election every 2 years, the Senate sends only one-third of its Members before the polls that frequently.

As a result, public opinion recasts the political complexion of the House of Representatives every other year. The Members of the House who voted so overwhelmingly for the Hartley bill were fresh from election campaigns. They remember vividly the issues of those campaigns and acted so as to redeem their election promises.

Senator DONNELL. My attention has been called to the fact that all this is time which is charged to us, this time I have been so generously yielding to you.

Senator HUMPHREY. I will take half of it.

Senator DONNELL. How much more do you have?

Senator HUMPHREY. I have just a little. I want you to remember the last sentence there:

They remember vividly the issues of those campaigns and acted so as to redeem their election promises.

Likewise, the Eighty-first House will remember vividly the issues.

Senator DONNELL. That is why the eight members of the committee adopted the resolution to terminate hearings by February 10.

Senator HUMPHREY. Yes. To continue:

This "behind the times" sentiment in the Senate made the passage of really corrective labor legislation more difficult than in the House.

In fact, the Senate leadership had considerable difficulty in getting a bill out of committee, that is, a bill in line with the general thinking prevalent on both sides of the Capitol.

It spells out who the Members were and then says:

Senator Taft was faced with a real problem in his committee.

He had drafted a tentative measure for discussion even before my bill reached the House floor.

This measure, which I will cover briefly, followed many of the general objectives of the original Hartley bill.

Then he points out the objectives, and so forth.

Senator DONNELL. How many more are you going to read on my time?

Senator HUMPHREY. I am almost done. Next:

It should be noted that the Senate committee was considering the Taft bill at the same time we were debating the Hartley bill on the floor of the House of Representatives.

As a matter of fact, the final committee version of their labor bill was reported to the Senate on the same day the House passed my bill—

speaking for Hartley.

Unfortunately, the House vote came too late to be of material assistance to Senator Taft.

In all fairness, though, it may be said that the comprehensive manner in which my bill covered all phases of labor-management relations served as a sounding board for public reaction which had its effect later in the Senate.

Senator TAFT. May I say that that is an inaccurate analysis.

Senator HUMPHREY. I would like to say this:

The approval of the Hartley bill by the House had caused the opposition Senators to concentrate their fire on the four principal provisions outlined above, which had the effect of permitting many other essential proposals to go by relatively unchallenged.

Then he said:

As the debates progress, the opposition gets all worked up over the horrible things you are attempting to foist on them. At the appropriate time, sensing the temper of the legislators, you bring the matter up for a vote.

You are then defeated and the undesirable provision is stricken from the bill.

With this out of the measure, the balance of power then shifts to you. Since the opposition had been concentrated on a particular section of the bill, which section has been eliminated, the legislators are now inclined to consider the remainder unobjectionable and proceed to approve your measure.

This procedure, on a more magnified scale, worked in the case of the Taft-Hartley Act.

While I personally consider the original Hartley bill a better piece of legislation than the final Taft-Hartley Act, we did include among its original provisions several that could easily have been omitted without sacrificing any of the basic philosophy of the original bill.

Our method was simple but not easily understood. We merely provided several different remedies for the same offense.

Senator DONNELL. If there is anything further, would you be kind enough to file it for the record?

Senator HUMPHREY. Thank you, Senator.

Senator DONNELL. I take it, Mr. Brown, that you are quite proud—and justly so, I assume—of the work that your union, the International Association of Machinists, has done in eliminating Communists from the various plants; is that right?

Mr. BROWN. Yes, indeed.

Senator DONNELL. And from your own union?

Mr. BROWN. Yes, sir.

Senator DONNELL. You have no objection, do you, to the inclusion in a bill such as we are working on here now, of a provision requiring the filing of anti-Communist affidavits? Do you have any objection to that?

Mr. BROWN. Yes; we have. We believe that if that provision is in there, it should apply equally to employers.

Senator DONNELL. I think you are right, and you would have no objection to the two provisions?

Mr. BROWN. None whatsoever.

Senator DONNELL. If we add in employers, you would have no objection to that?

One other thing: At the bottom of page 4 you say this. Rather, it is at the bottom of page 3 where you say that employers in various parts of the country filed legal-damage suits totaling millions of dollars against my organization.

The Boeing people filed one. Can you remember any other company offhand?

Mr. BROWN. Yes; an air transport line.

Senator DONNELL. Where was it?

Mr. BROWN. That was Capital Air Lines.

Senator DONNELL. Where is it located?

Mr. BROWN. It operates from New York down through the Southern States. Of course I appreciate they are not covered by the act, but I am naturally convinced—I should have said National Air Lines. They were influenced in that by reason of the provisions of the Taft-Hartley Act.

Senator DONNELL. They are not covered by the act?

Mr. BROWN. No.

Senator DONNELL. They are not taking action under any provision of the act?

Mr. BROWN. No.

Senator DONNELL. Are the Boeing people suing you under the act?

Mr. BROWN. They are, under the act.

Senator DONNELL. But the transport company is not suing you under the act?

Mr. BROWN. No.

Senator DONNELL. Has there been any suit against you except the Boeing suit filed under the act?

Mr. BROWN. No. There are only one or two more that I can recall.

Senator DONNELL. Do you remember where they are or how many they are?

Mr. BROWN. No.

Senator DONNELL. You are the president of this international organization?

Mr. BROWN. That is true.

Senator DONNELL. You don't know who filed these other suits?

Mr. BROWN. That is true because the work of the organization is specialized in the general office, and much of the matter you are asking about is in regard to matters that I don't handle myself. They are handled by associates.

Senator DONNELL. You don't think there should be any right on the part of the employer to sue a labor organization. You don't think there should be any such privilege to file suits against labor organizations for breach of contract?

Mr. BROWN. It is possible that thing would happen.

Senator DONNELL. You have no objection to that provision of the Taft-Hartley Act making what is sauce for the goose sauce for the gander so that either side may proceed?

Mr. BROWN. It is not that evenly balanced. It is not a matter of what is sauce for the goose being sauce for the gander.

Senator DONNELL. Do you have any objection to the law we are going to pass here in Congress containing a provision making labor unions liable for breaches of contract in suits at law just as the employers are liable in?

Mr. BROWN. It all depends on what you mean by breach of contract. Mention of the term is not sufficient.

Senator DONNELL. If you and I have a contract between us and I don't live up to it, I don't do what I say I am going to do, you would have a right to sue me for failure and collect whatever damages the law would give you for my failure, and I could do the same thing.

Do you think where a labor union and an employer have a contract that each of them ought to have the right to have the other fellow perform his contract? Do you believe that?

Mr. BROWN. I believe there should be some penalty for either party violating the contract.

Senator DONNELL. You believe each side should be able to expect the other fellow to live up to his contract?

Mr. BROWN. Yes.

Senator DONNELL. And there ought to be some kind of penalty on either side if he doesn't live up to it?

Mr. BROWN. Yes.

Senator DONNELL. Aren't lawsuits the way you and I would have to adjust that between ourselves if we couldn't agree? You would hale me into court; would you not?

Mr. BROWN. Yes.

Senator DONNELL. Is there any reason why we shouldn't do it in the case of labor union and employer?

Mr. BROWN. I believe the employer had access to the courts prior to the Taft-Hartley law and there was no need to put it in.

Senator DONNELL. The provision that makes labor unions liable in suits on breaches of contract, you don't think there is any need for that?

Mr. BROWN. I believe there is ample law now to deal with that.

Senator DONNELL. You think the employer had that right to sue even before that was put in the Taft-Hartley Act?

Mr. BROWN. Yes.

Senator DONNELL. There can't be any harm in putting it in then, can there?

Mr. BROWN. Under certain circumstances.

Senator DONNELL. Breach of contract is what I am talking about.

Mr. BROWN. No one would prevent him from going to court to try to bring suit.

Senator DONNELL. You wouldn't object to a provision in the law which says that the employer may sue the union any more than you would object to a provision that the union can sue the employer for a breaking of the contract?

Mr. BROWN. I would object under the Taft-Hartley Act.

Senator DONNELL. Just because you don't like the Taft-Hartley Act?

Mr. BROWN. No. The Taft-Hartley Act makes it possible for an employer to pack your union and pack the shop with all types of undesirables planted there for the purpose of discrediting the union, to violate the contract, and do everything to get the union discredited in the eyes of the public, and as long as the Taft-Hartley Act makes that possible I say the union should be immune from suit because as long as the Taft-Hartley Act in substance says, "We are going to plant your shop with these people who are going to get you in bad," using shop language, then I say the union should not be responsible for those individuals whom the court may refer to as agents of the union.

Senator DONNELL. I take it that you and I both agree if it can be proved that the employer planted men in his plant there in order to stir up unrest and to breach a contract, that the employer would be prevented by the court from recovering damages.

Mr. BROWN. It is difficult to prove, but the experience shows that happened.

Senator DONNELL. One final question. I want to ask you this: Do you think the Conciliation Service ought to be put back under the Department of Labor?

Mr. BROWN. Yes.

Senator DONNELL. Why do you think so?

Mr. BROWN. Because I think it belongs there because it deals with labor matters.

Senator DONNELL. Because it deals with labor matters?

Mr. BROWN. Yes.

Senator DONNELL. It tries to conciliate the quarrels between labor and management; is that right?

Mr. BROWN. Yes; to some extent.

Senator DONNELL. It deals with management and labor?

Mr. BROWN. Yes.

Senator DONNELL. Would you object to having it in the Department of Commerce?

Mr. BROWN. Yes. Congress originally placed that activity in the Labor Department, and on this particular question I don't believe it makes much difference where it is. It depends on who the Director of Conciliation is.

Senator DONNELL. You would prefer to have it in the Department of Labor?

Mr. BROWN. Positively.

Senator DONNELL. Very well, that is all.

The CHAIRMAN. Thank you very much, Mr. Brown.

Next we will hear from Mr. Guffey.

Senator DONNELL. Mr. Chairman, Mr. Guffey happens to come from my home State. I take pleasure in presenting him at this time. I am informed he is an attorney representing the Wagner Electric Corp., which is one of our very large and highly regarded institutions in the city of St. Louis employing a great many people.

I do not know in what capacity, but I know he is associated with one of the leading law firms of the city of St. Louis.

(Subsequently in two letters Mr. Brown addressed the chairman, as follows:)

INTERNATIONAL ASSOCIATION OF MACHINISTS,
Washington, D. C., February 17, 1949.

The Honorable ELBERT D. THOMAS,
Chairman, Labor and Public Welfare,
Senate Office Building, Washington, D. C.

DEAR SENATOR THOMAS: While testifying before your committee on February 14 the writer, in response to requests by members of your committee, promised to furnish certain statistical information relating to membership and the number of local unions organized during a particular period; hence the following:

In June 1933 when the National Industrial Recovery Act was enacted, the International Association of Machinists had 55,767 members. The membership record for each year thereafter to and including 1940 is as follows:

	Members		Members
1934-----	89,200	1938-----	155,200
1935-----	89,900	1939-----	161,800
1936-----	105,100	1940-----	205,100
1937-----	152,000		

I now refer you to the accompanying graphic chart showing increases or deflections in membership during the years 1941 to and including 1944, identified as exhibit No. I. This chart was part of the grand lodge officers report to the convention of the International Association of Machinists, convening October 29, 1945.

I next call your attention to the accompanying graphic chart showing increases or deflections in membership during the year 1945 to and including May 1948, identified as exhibit No. II. This graphic chart was a part of the report of the grand lodge officers to the convention of the International Association of Machinists, convening September 13, 1948.

At the close of 1948, the membership had receded to approximately 609,000. At the foot of exhibit No. 1 you will note in fine print that the membership figures on said charts do not include the more than 70,000 members who were inducted into the military services; 72,000 is a more correct figure. This group of members was added to our membership barometer making a grand total, in round figures, of 750,000 at the close of January 1, 1945.

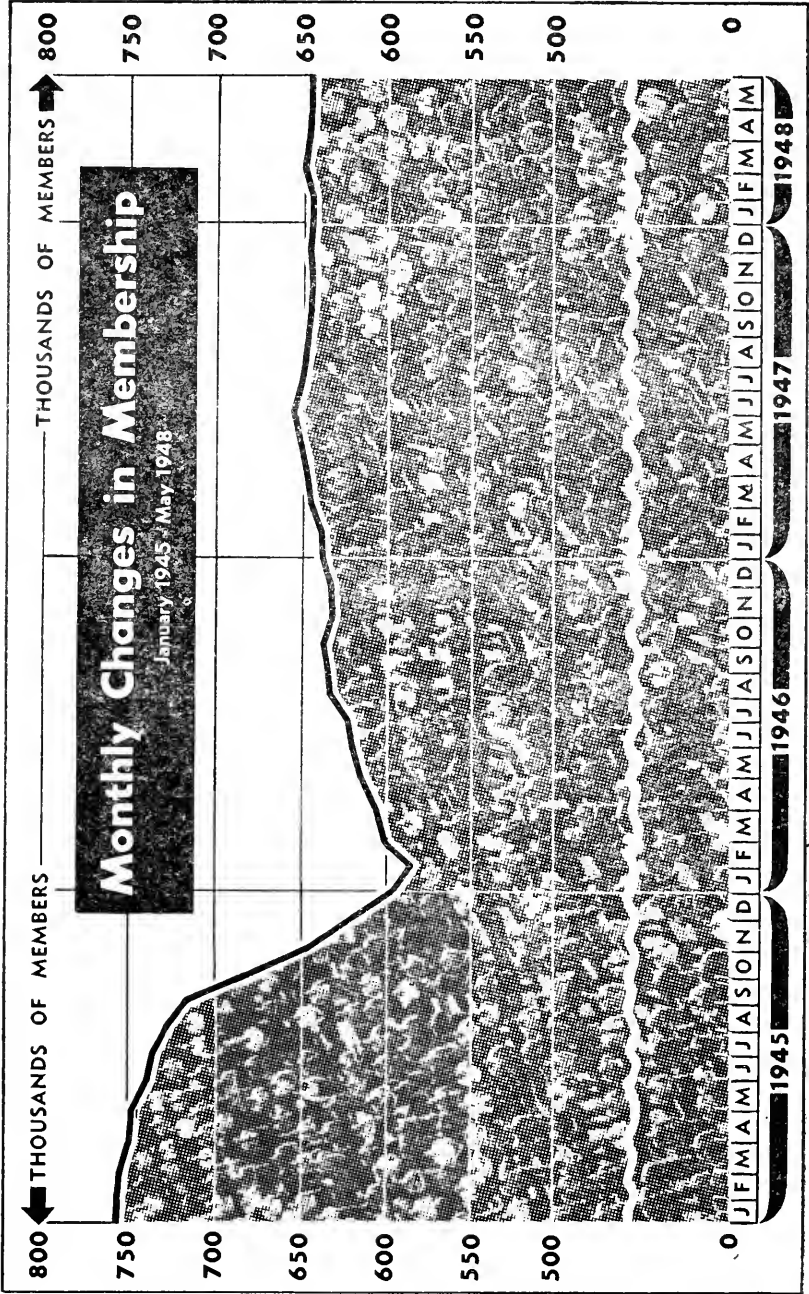
Almost immediately following VE-day in April 1945 the membership started to recede, principally due to certain types of war plants closing. Then on VJ-day in August 1945, war plants were closing more rapidly and consequently, the membership took a sharp decline, dropping to approximately 580,000 members by the close of January 1946.

You will note by exhibit No. II the membership then started to climb until May 1947 when it reached the peacetime peak of about 660,000 members. The membership then fluctuated for the next 12-month period and by the close of 1948, the membership was approximately 609,000. No membership check has been made since the close of 1948.

The following is a record of new local lodges established during the periods indicated:

Year:	Number organized	Year:	Number organized
1932-----	4	1941-----	153
1933-----	121	1942-----	149
1934-----	140	1943-----	158
1935-----	65	1944-----	149
1936-----	67	1945-----	84
1937-----	249	1946-----	125
1938-----	72	1947-----	79
1939-----	89	1948-----	70
1940-----	73		

While the above information relating to new local unions was requested, I personally feel it will not be helpful to your committee. By way of illustration: In a particular area where no additional local lodges were established, yet the local unions that were functioning in that area for years swelled their membership in the amount of 5,000 new members; in another area, 10 new lodges were established with a combined membership of approximately 500.



INTERNATIONAL ASSOCIATION OF MACHINISTS,
Washington, D. C., February 17, 1949.

HON. ELBERT D. THOMAS,

Chairman, Labor and Public Welfare,

Senate Office Building, Washington, D. C.

DEAR SENATOR THOMAS: While testifying before your committee February 14, I stated in substance that one Member of the House of Representatives from the State of New York, while debating the Taft-Hartley bill, stated that the bill, sentence by sentence, paragraph by paragraph, was written by the National Association of Manufacturers. My remarks occasioned considerable questioning by Senator Donnell. Senator Donnell's attitude toward the writer, in particular his style of quizzing, caused me to believe he was attempting to show that my reference to a Member of the House charging the National Association of Manufacturers being the author of the Taft-Hartley bill was a myth.

When testifying before your committee February 14, my reference to the bill in the House as the "Taft-Hartley bill" was an error on my part. The said bill referred to in the House was generally referred to as the "Hartley bill".

I now beg leave to supplement the above referred to testimony given by the writer with the following material which is part of the legislative history of the Taft-Hartley Act.

Congressional Record, April 16, 1947, issue, page 3581, column 2:

"Mr. O'TOOLE. Mr. Chairman, * * * Now as to the bill itself: It is our legal duty to engage in moderation. Yet, there is no moderation in this bill because it was written sentence by sentence, paragraph by paragraph, and page by page by the National Association of Manufacturers. It is but a reprint of all of the propaganda and antilabor ideas with which that organization has flooded the Congress. The bill has one primary intent and that is to put the American workman back to the standard of servility that existed in employment 50 or 60 years ago."

Congressional Record, April 16, 1947 issue, page 3584, column 1:

"Mr. POWELL. Mr. Chairman, * * * This bill was written on the fifth floor of the Old House Office Building, written by over a score of corporation lawyers, paid not by the Government of the United States, not even by small business, but paid by big business, monopoly business."

Congressional Record, April 15, 1947 issue, page 3530, column 3:

"Mr. KLEIN. Mr. Speaker, * * * The new House labor bill was not written with the help of the Democratic members of the committee. In fact, they were not consulted and no full committee meetings were held to discuss it. The bill was actually written with the help of several industry representatives and some lawyers from the National Association of Manufacturers and the United States Chamber of Commerce. Some of the most valuable assistance came from William Ingles, who reports a \$24,000 annual salary as a lobbyist."

Congressional Record, April 15, 1947 issue, page 3560, column 1, and page 3561, column 1:

"Mr. BUCHANAN. Mr. Chairman, * * * This bill has been offered in this Congress by the Republican majority of this House and in the name of the Republican Party. But I submit that there is real and reasonable doubt about the true origin and authorship of this proposal. It was devised and drafted in shameful secrecy which ill becomes elected public representatives responsible to the people. 'Who wrote H. R. 3020?' is a pertinent and legitimate question which the people can rightly ask of its sponsors. Were the attorneys and lobbyists of giant and powerful corporate aggregates admitted behind the closed doors of the committee chambers just by accident when the bill was drawn? Was the expensive and lurid antilabor propaganda with which the Halls of Congress have been strewn in the last few days just a coincidence?

"There is more than a clue in the fact that the program of labor legislation drafted by the National Association of Manufacturers last December and published in full-page advertisements in the New York Times and scores of other papers on January 8 of this year, is embodied in its entirety in the proposed bill. There is more than a hint of the bill's real origin in the fact that several sections of this NAM program are written into the bill word for word. Study this bill; examine it carefully, and you will be driven to the inevitable conclusion about its true authorship. Listen to its language and observe the open and the hidden points of its thrusts, and you will be compelled to conclude: Yes, the voice is the voice of the Republican majority, but the hand is the hand of the National Association of Manufacturers."

Congressional Record, May 12, 1947 issue, page 5147, column 3 and page 5148, column 1.

"Mr. AIKEN. Mr. President, * * * The leaders of industry, who gave the committee members all kinds of advice, were for the most part vindictive, and it was clear to me, at least, from their attitude that their principal desire was to destroy labor organizations completely. * * *

"It is a wonder that Members of the Senate can hold their tempers and vote on the bill according to their best judgment, because we have been subjected to the most intensive, expensive, and vicious propaganda campaign that any Congress has ever been subjected to.

"I do not refer to the propaganda campaign of the labor unions, although I hold no brief for that. I refer to a propaganda campaign which has cost well into the millions of dollars. I should not be surprised if the total amount spent in this campaign would amount to at least \$100,000,000. I told the Senate last spring that the single March advertising campaign in the newspapers against labor by the National Association of Manufacturers cost \$2,000,000, and that statement has not been contradicted as yet, although it was made a year ago.

"This propaganda campaign has been conducted through letters to the press; it has been conducted through radio commentators whose services have been for hire by various organizations. It has been conducted through speakers sent everywhere in the United States where they could get an opportunity to expound the antilabor doctrine. * * *

Mr. Senator, will you officially submit this letter to your committee?

Sincerely,

H. W. BROWN, *International President.*

(Mr. Brown submitted the following prepared statement.)

STATEMENT OF HARVEY W. BROWN, INTERNATIONAL PRESIDENT, INTERNATIONAL ASSOCIATION OF MACHINISTS, WITH REFERENCE TO SUBSTITUTE BILL FOR SENATE BILL 249

I am H. W. Brown, international president, International Association of Machinists. I am grateful to the committee for the privilege of appearing here to present my views and the views of the International Association of Machinists (hereinafter referred to as the machinists union) with reference to the substitute for Senate bill 249, a measure which is of vital concern to my organization.

This bill proposes the repeal of the Labor-Management Relations Act of 1947 (hereinafter referred to as the Taft-Hartley Act) and the reenactment of the National Labor Relations Act of 1935 (hereinafter referred to as the Wagner Act), with certain amendments. I desire first to state the position of the machinists union with regard to the proposed repeal of the Taft-Hartley Act.

In any discussion of the Taft-Hartley Act we must bear in mind the conditions which existed between management and labor before the Wagner Act, and more important still, we must bear in mind that these conditions were directly responsible for the enactment of the Wagner Act. We are convinced that this act (Wagner Act) was passed for the express purpose of giving a very large portion of our workers relief from the effects of conditions which prevented them from enjoying the rights and opportunities guaranteed in our Constitution and the Bill of Rights. In the period prior to the Wagner Act workers were at a tremendous disadvantage in their efforts to promote their own welfare and the welfare of their families. The top-heavy advantage of employers such as the influence of their resources, their connections, combines, etc.—and particularly the fact that employers owned and controlled jobs—were used to exploit workers. In many instances those who controlled credit denied credit to employers who were dealing fairly with the labor unions representing the workers. When workers objected to such exploitation, they were discharged and in many instances prevented from obtaining employment elsewhere through veiled, subtle, and cunning blacklisting. This type of exploitation was not good for our economy because it kept working standards at a low level and substantially restricted the buying power of the workers, who constituted the greatest majority of our citizens.

There is no question but that the Wagner Act was enacted to grant workers relief from those conditions. During the period between the enactment of the Wagner Act and the Taft-Hartley Act workers did obtain some relief. As a result of the act, working conditions improved and purchasing power of the plain people increased. Our general economy was greatly benefited by these

results. Notwithstanding these improvements, however, equality of advantages between workers and employers was not established. Prior to the Taft-Hartley Act employers still had many advantages at the bargaining table which workers did not have, but between the enactment of the Wagner Act and the Taft-Hartley Act many employers had accepted labor unions and collective bargaining because of the Wagner Act and, as a result, the general industrial relations in this country were much improved as compared with the relations existent since enactment of the Taft-Hartley Act.

The Taft-Hartley Act not only threatens to return us to the conditions which the Wagner Act was intended to relieve but actually has already made some of these conditions substantially worse. This act (the Taft-Hartley Act) by its language and, we believe, by its intent makes the relief which the Wagner Act was intended to provide impossible. Thus, in the Taft-Hartley Act we have combined one piece of legislation which grants needed relief to a certain segment of our society and another piece of legislation which, in couched language, makes that relief impossible to obtain. To say to workers on the one hand that you have a right to organize; you have a right to bargain collectively; you have a right to strike, and the Government will protect you if anyone attempts to interfere with these rights and then, on the other hand, render such workers helpless to utilize these rights, is not only an insult to the intelligence of the American worker but is, in itself, contrary to our system of government. This is exactly what the Taft-Hartley Act has done.

The Taft-Hartley Act has diverted the energies and resources of labor unions from the economic needs of workers to more intense and expensive struggles with those who oppose labor unions. The act has greatly stimulated the activities of the opponents of organized labor and the exponents of the open shop, longer hours, low wages, and greater profits.

The Machinists Union is one of the many unions which has suffered substantially because of the act. As a result of the Taft-Hartley Act, we were compelled to employ a battery of attorneys throughout the length and breadth of this country in order to properly protect our members. Due to the greatly increased opposition of many employers, agreement negotiations were extended over substantially longer periods of time than the average time previously consumed in such negotiations. In many instances, the stimulated opposition of employers became so intense that strikes which would not otherwise have occurred, became inevitable. Employers in various parts of the country filed legal damage suits, totaling millions of dollars, against my organization. On the over-all, a very substantial amount of our resources and energies were devoted to the protection of our organization against those elements of opposition which were born and developed by the Taft-Hartley Act.

If time would permit, labor unions could cite many specific cases to support my previous statements. I would like to cite just a few of the experiences of the Machinists Union in support of these statements. In the northwestern section of our country, the Machinists Union had, over a period of years, established a sensible relationship with a large manufacturer in the aircraft manufacturing industry. An agreement had been in effect for approximately 13 years. We had very little difficulty in renewing this agreement upon its expiration from year to year. My organization assisted this company substantially in the elimination of Communists from their plant. Actually, the union assumed the brunt of this responsibility, costing us many thousands of dollars. Up to the time of the Taft-Hartley Act, our relationship with this company was actually considered a good example of industrial relations. When it became evident that the majority of the Eightieth Congress favored legislation against labor unions, the attitude of the company management commenced to change. When the Taft-Hartley Act became a reality, the attitude of the company changed substantially. The company stalled in the negotiations of a new agreement. As a result, negotiations were dragged out for some 17 months. Although we attempted every known means of settling our differences as we had done so often in the past, all of our efforts failed. In fact, we offered to arbitrate the issues in dispute but the company refused to agree to arbitration unless they, themselves, had the right of veto in the selection of any and all arbitrators. All of this finally resulted in a very costly strike—costly to the stockholders and costly to the employees. In addition to all of this, the company is presently suing the employees' union—the Machinists Union—for \$2,250,000. We are certain in our minds that this would not have occurred if it had not been for the Taft-Hartley

Act and the sentiment which this act created; that is, that union labor must be pushed around and punished.

In a plant in the Middle West our membership was engaged in a strike which had been sanctioned by our organization. The struck work from this plant was sent to another employer in the same area with which the Machinists Union had an agreement and whose employees also were members of the Machinists Union. Under the Taft-Hartley Act our members in the second plant were compelled to work as strikebreakers on work which their fellow trade-unionists refused to perform because of economic reasons. This does not build the type of Americans which have made our country great. The reverse is true. It fosters dissension and strife, not only as between different segments in our society, but actually among those who are striving for a common interest.

In another case in the Great Lakes region, our members engaged in a strike for legitimate and proper reasons. The strike was sanctioned by the Machinists Union. The company hired strikebreakers. After enough strikebreakers had been hired, the strikebreakers petitioned the Labor Board for a representation election on the pretense of having formed a so-called independent union, obviously inspired by management. The National Labor Relations Board, pursuant to the Taft-Hartley Act, accepted the petition from this group of strikebreakers and ordered an election to be held on March 18, 1948. In tabulating the votes the Board counted only the votes of the strikebreakers and, as a result, our union, which had previously represented the regular employees in this shop, was eliminated.

With respect to the amendments in the nature of a substitute to Senate bill 249, we are not touching on sections 101, 102, 103, 104, and 105 as they deal exclusively with administration and the legislative manner in which to bring about the repeal of the Taft-Hartley Act.

With respect to the prevention of unjustifiable secondary boycotts and jurisdictional disputes in section 106, we believe that this section as written is about as far as the Government should go in the umpiring of relations between unions. It must be remembered that not all jurisdictional strikes are caused by unions; some are provoked by employers.

We have some concern, however, that the past work history criteria set forth in this section with respect to settling jurisdictional disputes may allow some union which has claimed and performed another union's work to present a compelling case on the work history doctrine when, in fact, it has performed this work contrary to its original jurisdictional grants. In other words, the mere fact that a thief has held another's purse for a period of years does not give him the right to legal ownership of that purse; hence, such decisional principle can prove unfair to a union if given too much weight.

With respect to the secondary boycott features of this section, we believe that the boycotts prescribed are as far as the Government should go in preventing secondary boycotts as pointed out earlier.

Section 107, which permits union shop agreements and prevents State laws from interfering with such agreements is one of the most desirable features of this proposed bill. We believe that Congress should set the legislative pattern on a national scale on so vital an issue as the union shop. Such matters should not be left to State legislatures, particularly in industries which affect the commerce of our Nation.

We would recast section 108 to limit the serving of notice to terminate agreements to the parties on each other. Under the terms of the section as proposed, it is conceivable that an agreement may be terminated without the knowledge of one of the parties. Our organization has, for many years, followed a practice of not granting a strike sanction until the services of the Conciliation Service had been utilized.

At least a 30-day notice is required almost universally in labor agreements. We would eliminate the necessity of filing such notice with a Federal agency. If Congress wants to impose such a requirement, the requirement should be that the notice be filed between the parties. If one or the other desires the service of the Conciliation Department, let that be voluntarily requested.

We favor the return of the Conciliation Service to the Department of Labor, as proposed in title II of the proposed bill.

The Service has, since its inception and prior to the Taft-Hartley Act, been under the Secretary of Labor. That is where it belongs. The charge that the Labor Department is biased is absurd. Answering those who make that charge, and on the basis of their reasoning, labor could well take the position that the Service will be biased in favor of industry whenever headed by a former business

executive. Any insinuation that the Labor Department is biased is an unfair accusation and carries a connotation of manipulation of a Federal agency.

We offer no objection to section 202.

We cannot agree that a commissioner of conciliation should not serve as an arbitrator as outlined in section 203 if the parties agree that he should serve.

We are in accord with section 204, and the declaration contained therein might well be included in title I of the act to give added stature to the bargaining provisions of the 1935 act.

We agree in principle with section 205. We believe, however, that some method of free arbitration should be provided. We have consistently advocated free arbitration since its abolition because we know of some employers who insist on forcing every issue of disagreement to arbitration, and we believe they do so to drain the union treasury. During the war we had several such employers, and several of our locals were forced to demand free arbitration to prevent their bankruptcy.

We subscribe to the Labor-Management Advisory Committee provided for in section 206. This kind of committee can prove very helpful.

The provisions of title III seem to be the proper manner in which to handle emergency situations. These provisions represent a sound procedure of Government participation into labor-management relations. A somewhat similar procedure has worked fairly well under the Railway Labor Act. It will be more productive of solutions of national emergency disputes than getting injunctions. I do not believe that a formula can be found that will guarantee the prevention of strikes even in vital industries. Human beings will rebel when working conditions become intolerable.

We are in accord with title IV of the act and particularly section 402. A labor union is a voluntary association formed for the purpose of bettering the economic welfare of its members. As such it must, from time to time, engage in political action to insure the election of progressive and forward-looking citizens. Under these circumstances it has a duty toward its members to see that they have all of the facts concerning candidates for office. The membership of labor organizations should be allowed, if they want to use their funds, to elect men to office who stand for the things workingmen join unions for.

The Taft-Hartley Act, in almost all of its provisions, and certainly in its general concept, has been detrimental to the welfare of our plain people. It has become the weapon and the breastwork of the antilabor forces in this country in their unceasing fight against labor unions. It promotes industrial unrest and chaos, all of which is gravely detrimental to the general welfare of our country.

STATEMENT OF WILLIAM F. GUFFEY, JR., APPEARING ON BEHALF OF THE WAGNER ELECTRIC CORP., ST. LOUIS, MO.

Senator DONNELL. Do you represent Famous-Barr Co.?

Mr. GUFFEY. Our firm does.

Senator DONNELL. That is the company that has the Famous-Barr store, one of the largest department stores in St. Louis and also owns various other stores, one being in Denver?

Mr. GUFFEY. It operates with several subsidiary companies, one of which is known as Famous-Barr Co. of St. Louis.

Senator DONNELL. Tell us briefly what has been your experience as an official or of a nonofficial nature in labor matters.

Mr. GUFFEY. Might I say now I am a practicing attorney in St. Louis and all my time is devoted to the advising and representing of employers in labor matters.

Prior to that time for about 7½ years from 1938 to 1946, I was on the staff of the National Labor Relations Board, first as an attorney in the Review Section and then as an attorney in the Enforcement Section, and then as a trial examiner and finally as director of the Board's St. Louis regional office.

Senator DONNELL. That was all prior to the time when the Taft-Hartley Act went into effect?

Mr. GUFFEY. That is true. I left the Board in February 1946.

Senator DONNELL. All your experience with the National Labor Relations Board was during its operation under the Wagner Act?

Mr. GUFFEY. That is true.

I might say that the Wagner Electric Corp. is just one of the employers that I represent and because of my intimate knowledge with their labor relations and their views on this pending bill, and because of my previous association with the Labor Board they asked me to come down here and present their views as well as my own.

I have prepared a written statement, which I have filed, as I understand, for the printed record, and in that statement I have tried to discuss the things that the Wagner Electric Co. considers to be important aspects of the Taft-Hartley Act which are eliminated from the pending bill and which Wagner Electric feels ought to be incorporated in any new legislation which is passed.

I only want to mention by way of high lighting three of the subjects that I have discussed in the prepared statement. The first of those questions that I would like to talk about is the effect that the pending bill, if adopted, would have on supervisory employees. That was discussed at some length by a witness this morning, and because of his testimony I am going to make mine brief because he said some of the things that I had planned to say.

I remember a few years ago when the Labor Board decided the Packard Motor Co. case it referred to supervisory employees as traffic cops of industry.

I want to say that with regard to the Wagner Electric Co. I know it is true and I presume it is true with many other industries, that supervisory employees are much, much more than mere traffic cops. They are a very important part of the managerial and policy-making personnel of the company.

I have set forth in my written statement some of the aspects of the supervising employees' jobs, which I think demonstrate that such supervisors are much more clearly identified with management than they are with rank and file people, aspects of their jobs which make it extremely important that their interest and their loyalties be undivided. I think and the Wagner Electric thinks that when the United States Government lends the power of its influence and its administrative assistance to supervisory employees to join unions and then compels employers to bargain with those unions, and particularly so by reason of the fact that the unions which the supervisors join are either the same as or closely affiliated with unions of rank-and-file employees, the United States Government then creates a schism between the management and its rank-and-file employees and its supervisors that management can't stand and which will simply redound to the disadvantage of the public in general.

It should be noted that the Taft-Hartley Act does not make it unlawful for an employer to deal with the representatives of its supervisors. It simply leaves the matter to the discretion of the employer, and I think that is wise. There may be some situations—I don't have them in mind at the moment—where it would be not disadvantageous for an employer to deal collectively with the representatives of supervisors. We feel that is not true at Wagner, and so we feel we ought to be free to refrain from bargaining collectively with representatives of supervisors under any legislation that is now adopted.

I have also outlined in the brief prepared statement the Wagner Co.'s views with respect to unfair labor practices by unions and with the remedies which are provided by the Taft-Hartley Act for the remedying of those unfair labor practices. I speak in one place about the use of secondary boycotts, the token strike, and picketing.

There is only one aspect of that which I desire to highlight by way of oral testimony, and that aspect is a matter which was not provided for in either the Wagner Act or the Taft-Hartley Act. That is a provision which I think should be contained in the Federal labor law which would make it unlawful for a union which does not represent a majority of the employees involved to incite a token strike or picket an employer's place of business for the purpose of compelling the employers to recognize and deal with that union.

I would like to illustrate by reference to a particular case the importance that I attach to that kind of provision in the law. For a period of several years an employer in St. Louis had a contract, including a union-shop provision, with a particular labor organization. Just about a year ago, just prior to the expiration of the last of those contracts, the employees indicated to the employer that they no longer wanted to be members of that union and that they would not be members of it, and if he signed a contract which compelled them to be, they would quit their jobs.

At that point the employer informed the union that he could not sign another contract unless the union demonstrated that it represented the employees. The union immediately put a picket line around the employer's place of business. That picket line continued for some time.

Eventually the employer came to me and asked if I could do anything to help him out of that situation. I looked at it and with considerable doubt set about to try to do it, and because of his anxiety to straighten the thing out in an amicable fashion I offered to sign a contract with that union which did not include a union-shop provision, saying that to include such a provision in the contract would be a violation of the law, and the employees had informed us they didn't want it and we couldn't do it.

We got no place, and finally I told the union that I would consent to a union-shop election before the Board if the union would simply supply the 30-percent interest showing which was required to have such an election, and if the employees authorized the union-shop election, we would sign that kind of contract. The union, however, was unable to get even a single employee to sign any kind of an authorization designating or supporting the union request for a union-shop election, and so we couldn't have any.

I remember that the picketing stopped for about 30 minutes while they tried to get the employees to sign the cards, and as soon as they refused to sign them, the picketing was resumed. I think there is a situation in which that union was not trying to investigate the will of the employees. I don't believe that picket line was intended to persuade the employees to join the union or to designate the union as the employees' representative.

That action was designed to bring economic pressure on the employer, to induce or compel him to sign a union-shop contract with that union, notwithstanding the wishes of the employees and notwithstanding the provisions of the law.

Senator MORSE. It was a picket line in which they were picketing the employees as well as the employer, was it not?

Mr. GUFFEY. That is very true. They were picketing the employees as they came in and left their place of work.

Senator MORSE. The union apparently felt they could no longer maintain the support of their own union members for the continuation of the contract and resorted to economic force against their own fellow workers.

Mr. GUFFEY. I say it is economic force against the employer.

Senator MORSE. I am coming to that, but because of the fact that the fellow workers had apparently lost confidence in their own union organization they believed they should have the right to use economic force against their own fellow workers.

Mr. GUFFEY. I can't tell you what they thought they had a right to do, but the effect was to bring economic pressure on the employer, which inevitably would affect the economic welfare of the employees, and when the employees see their economic welfare being damaged by the employer's loss of business, they would figure that the way to protect themselves is to join the union.

Senator MORSE. Assuming your facts, the union was attempting to use economic force upon an employer to compel him to sign a type of union contract which his workers clearly did not want and in regard to which on the basis of your facts there is no showing that there was any collusion on the part of the employer.

Mr. GUFFEY. That is right.

Senator MORSE. There is a case of the picket line and strike being used in an attempt to organize a shop against the will of the workers in the absence of any employer collusion.

Mr. GUFFEY. That is exactly right. Now I think our law provides adequate and fair machinery for the determination of the will of those employees, and I think it is fair and safe to say that during the 12 or 13 years of the Labor Board's administration of the Wagner Act, whatever else you may say about the Wagner Act or about the Labor Board, its election procedure and machinery, so far as I know, has remained untarnished. I don't believe there has been a word of criticism or scandal about the way the Board conducted its elections. They provided a fair and secret means of expressing the sentiment of the employees.

I think, that being the case, that is where the will of the employees ought to be determined rather than to permit unions to indulge in these coercive activities, which have the effect not of persuading, but of compelling by reason of creating an economic disturbance so far as those employees are concerned.

I think that any legislation that is now adopted should make it mandatory that when a union wants to represent employees or when employees want a union to represent them, that the truth or falsity of that claim should be determined by a Labor Board election and if any attempt to compel either organization or recognition is made by the use of economic weapons, it should be prevented by law.

Senator MORSE. In a case, Mr. Guffey, where there is a plant in operation and the plant is not a closed-shop plant and the officers of the union come to the employer and submit to him a union-shop agreement—forgetting the Taft-Hartley law for a moment—or a closed-

shop agreement, assuming you could have a closed-shop agreement, is it your position that whatever law is on the books in regard to union maintenance, it ought to contain a provision which will provide that a union should make a showing that it truly represents the men over whom it seeks to impose a union-shop or closed-shop agreement?

Mr. GUFFEY. I think whether or not the union-shop provision is included in the contract ought to be determined by whether or not the union represents employees for all other purposes. I look upon union shop pretty much the same as a wage increase or anything like that. If a majority of employees want it, they should have it. I don't believe I am expressing Wagner Electric's sentiment when I make that last statement.

Senator TAFT. You would eliminate the election on the union shop but make it easier to get an election on the general question of representation?

Mr. GUFFEY. I would preserve the procedure we have had since the Wagner Act for determining the question of representation. I would eliminate the union-shop vote procedure, and with that much of it I am sure I speak for Wagner Electric as well as myself, and what I meant awhile ago was when I say I have no objection to the union shop, I am speaking for myself then and I am not authorized to speak for Wagner Electric.

Senator TAFT. You figure in the case you dealt with under the Taft-Hartley law that the employers couldn't get an election, either; couldn't have the question raised by his application? Couldn't they have applied for an election?

Mr. GUFFEY. They could have applied for a representation election.

Senator TAFT. That is what I mean.

Mr. GUFFEY. But that wouldn't have solved the question of the union shop, and in my negotiations with the union it had become clear that they were not interested in any kind of contract unless they could have a contract which included a union-shop provision, so there was no necessity for any kind of election unless it be a union-shop election, which only the union could seek.

Senator TAFT. I don't quite understand what you are proposing to change in the law.

Mr. GUFFEY. I am proposing this: That on the facts of the case—I may have misunderstood your question—the facts of the case I used for illustration, the union was seeking a union-shop contract. We were saying, "You don't represent our employees. If you show that you do, then we will sign a contract with you."

Now, instead of being willing to demonstrate that they represented the people, they continued their picket lines.

Senator MORSE. They didn't want to go to a representation election?

Mr. GUFFEY. They didn't want to go to one. They tried. They talked with the people. They met with them, they tried to tell them the advantages of continuing their membership in the union, et cetera.

Now I have to leave that particular factual situation when I express this view about the requirement of the Labor Board elections rather than picketing for organizational purposes, because that factual situation only illustrates the evil of having these questions determined by the use of economic force rather than by a Board election, by Board election machinery, but the facts in that situation are all

wrapped up with the union-shop election, which is something else again.

If I may a little more clearly than I did a while ago state my view about the union-shop election, it is this: That if a majority of the employees have designated a union as their collective-bargaining representative, then I think that bargaining representative ought to be free to negotiate any kind of union-security agreement it can under the law without the necessity of having an employee vote on that particular question.

And so I would eliminate the union-shop election, but I would make it mandatory that the representative status of employees be determined by Labor Board elections and not by the use of economic weapons.

Senator MORSE. Is it your position that when the union refuses to participate in a representation election and instead establishes a picket line that that act be defined as an unfair labor practice?

Mr. GUFFEY. Yes, sir; and I think it ought to be remediable not only by the Board's processes under the unfair labor practice sections, but I would want it included as one of those things that is remediable by injunctive relief.

Senator MORSE. There are a couple of closed-shop situations on which I would like to get your opinion. Assume the hypothetical that the principle of the closed shop should be recognized, assume that.

Now the union officers walk in to an employer and say, "Here is a union-shop contract and we ask you to sign it."

One, is it your opinion that the question of whether or not he shall accept the union-shop contract should be made the subject of collective bargaining?

Mr. GUFFEY. Yes, sir.

Senator MORSE. And two, if in collective bargaining he refuses to reach an agreement with the union officials over the closed shop, do you think he should be in a position to request proof by way of an election conducted by the National Labor Relations Board that his employees, the majority of them at least, want a closed shop?

Mr. GUFFEY. I doubt if the law should so provide. I think there would be nothing wrong in an employer being able to have that question determined some way or another.

Senator MORSE. Petition to have it done if he wishes to do so?

Mr. GUFFEY. I would hate to have that responsibility continued on the Labor Board, because I know it is burdensome and I don't think it is very useful in those few cases that you have in mind; you would hardly want a law of general application.

Senator MORSE. Do you think it ought to be made an unfair labor practice in a situation where the union officials walk in with the closed-shop issue and lay a contract before the employer calling for the closed shop and say in effect, "Here it is, sign it or else"?

Mr. GUFFEY. I think it should be, I think that should be considered refusal to bargain. I think there ought to be a provision of the law making it an unfair labor practice for a union to refuse to bargain.

Senator MORSE. That is all.

Mr. GUFFEY. I have one other short matter, and that is the necessity for the preservation of certain provisions of section 9 of the Taft-Hartley Act with respect to the filing of petitions for certification.

Under the Wagner Act only unions could file petitions for certification, and employers frequently found themselves in positions where, even though they had good faith doubts about the truth of the claim that the union represented the employees, they were helpless to do anything about it.

I have had personal experience with one situation where again we had contracts with the union, and when one of them expired expressed the doubt about the union's right to continue to represent them or the employees' desire that they continue to represent them, offered to consent to an election and be bound by the result of it.

The union refused to file a petition; we couldn't do anything about it, this being under the Wagner Act. The upshot was that the union filed a refusal-to-bargain charge and we tried the thing before the Board. The Board found we had not been guilty of refusal to bargain and the complaint was dismissed.

We had had to suffer the expense and inconvenience of a hearing before a trial examiner, a trip to Washington to argue the case, writing of briefs, all of which could have been determined at a consent election a year sooner. Situations like that, I think, make it extremely necessary that employers under any new law which is adopted be permitted to file petitions to determine this question of representation even though only one union is making that claim.

According to what I have read in the newspapers, it has been said in this hearing that that kind of provision is full of evil because it gives employers a union-busting weapon and I think it was said that an employer could run down and file a petition on the very day the union organizer hit town, thereby not giving them a chance.

I would like to point out that the Taft-Hartley Act provides that an employer may file a petition whenever it is claimed by an organization that the organization represents a majority of his employees. Now the employer can't file a petition until somebody has come in and said, "We represent your people and we want recognition." At that point the employer can file the petition and request the Board to determine the truth of that claim.

So it just is not true that an employer can run down and file a petition the day the union organization starts. If the union in good faith claims to represent the people, then the union ought to be willing to have the truth of that claim tested in a Labor Board election, and hence I say the employer ought to continue to have that right.

Senator MORSE. Mr. Chairman, Mr. Guffey's statement is not long and I would like to request that it be printed in the transcript.

Senator DONNELL. I second that motion.

The CHAIRMAN. Very well.

(The prepared statement of Mr. Guffey is as follows:)

My name is William M. Guffey, Jr. I am a practicing attorney in St. Louis, Mo., and my practice is limited exclusively to advising and representing employers in labor matters.

During the 7½-year period, from June 1938 to February 1946, I was on the staff of the National Labor Relations Board, first as attorney in the Review Section, then as attorney in the Enforcement Section, then as trial examiner, and finally as director of the Board's regional office in St. Louis.

Wagner Electric Corp. of St. Louis is one of the employers whom I now represent. Because of my intimate knowledge of that company's labor relations and its views on the pending bill, and because of my previous association with the

Labor Board, Wagner Electric has requested me to appear and express its views, as well as my own views, on the bill which is now before this committee.

If the allotted time permitted, I would like to give a critical and exhaustive analysis of the practical consequences of the pending bill, if adopted. That being impossible in the short time available to me, I limit my statement to those aspects of the bill which we consider most objectionable.

1. SUPERVISORY EMPLOYEES

First, I would like to speak briefly about the effect of the proposed bill on supervisory employees.

The Taft-Hartley Act excludes supervisors from the coverage of that act and from the jurisdiction of the Board. It is important that those provisions of the Taft-Hartley Act be preserved.

It is elementary that supervisory employees are an important part of managerial and policy-making personnel.

I know it is true at Wagner Electric, and I think it is true at most other industrial plants, that a supervisor is much more than a mere "traffic cop of industry" as the Labor Board described supervisors in the *Packard Motor Car case* (61 N. L. R. B. 4).

At Wagner, the foremen have final authority in the determination of the number of employees needed in their respective departments and in selecting and retaining the particular individuals who are employed. The foremen are charged with the responsibility of evaluating the skill, experience, and training of job applicants for the purpose of determining the job classification and the wage rate which will be applied to the applicant when hired. The foremen determine whether the applicant will be given the normal starting rate or a higher rate commensurate with his previous training and experience, if any. In short, they evaluate the worth of the applicant to the company. The foremen assign newly hired employees to a particular job in the department, and thereafter are responsible for the employees' on-the-job training and general orientation. The foremen are charged with the responsibility of determining which new employee shall be failed on probation and which shall be retained on the company's pay roll after the conclusion of the probationary period. Since the discharge of the probationary employees is not subject to the grievance procedure set forth in the contract between the company and the union, the foremen's decision is final. The foremen review the work progress of employees and make the final decision as to whether an employee receives a wage increase. The foremen have the authority to promote, demote, and transfer employees within their respective departments. Foremen are responsible for production costs and for the exercise of judgment which will keep production costs at a minimum. If time permitted, I could enumerate many other functions which closely identify supervisors with management, but what I have said clearly demonstrates that supervisors are more than mere "traffic cops."

When the United States Government uses the power of its influence and its administrative assistance to encourage supervisors to join unions which are almost always the same as, or closely affiliated with, the unions of rank and file employees, and then compels employers to deal with those unions as the representatives of supervisors, the United States Government creates a schism in the ranks of management which neither industry nor the public can afford.

It was argued before the Labor Board and before this committee that the withdrawal of governmental assistance to the organization of supervisors would result in widespread, industry-crippling, strikes by supervisors. That threat has not materialized. I can think of nothing more peaceful than the relationship between top management and supervisors since the effective date of the Taft-Hartley Act.

The Taft-Hartley Act does not make it unlawful for employers to deal collectively with the representatives of their supervisors. It wisely leaves that matter to the discretion of industry. This committee and this Congress would do well to leave undisturbed those provisions of the Taft-Hartley Act which relate to supervisory employees.

I speak with complete assurance and absolute certainty, not only for Wagner Electric Corp., but for every other industry which I represent, when I say that industry is unalterably opposed to the repeal of those provisions of the Taft-Hartley Act which excludes supervisors from the coverage of the act and from the jurisdiction of the Labor Board. Those sections of the Taft-Hartley Act should definitely be included in any bill which is reported out of this committee.

2. UNFAIR LABOR PRACTICES BY UNIONS

The Taft-Hartley Act enumerates certain union conduct which, if engaged in, constitutes unfair labor practices which the Labor Board is empowered to remedy or prevent. Those provisions of the Taft-Hartley Act should be preserved.

(a) Restraint and coercion

It is common knowledge that unions frequently engage in conduct which restrains or coerces employees in the exercise of their rights to join or refrain from joining a particular union, or any union. If employees are to be free to exercise the rights which the law claims to protect, they must be free from union restraint and coercion as well as from employer restraint and coercion.

(b) Coercion of discrimination

Unions have frequently denied employees membership or have terminated their membership because of the employees' legitimate activity on behalf of another union, or because of some personal animosity or friction, and have then insisted that such employees be discharged in accordance with the terms of a union security contract. The decisions of the Labor Board relate many such cases. In such cases the employer was forced either to comply with the union's demand, or violate his contract, incur the wrath of the union, and sometimes suffer economic reprisals at the hands of the union with which he was trying to deal in compliance with the law. In several such cases the employer was penalized by a reinstatement and back-pay order when he had done nothing more than to accede to the union's demand for compliance with the terms of a legally executed and completely valid contract. In such cases justice and equity were entirely lacking. Section 8 (b) (2) of the Taft-Hartley Act corrected that situation and that section of the Taft-Hartley Act should certainly be preserved.

(c) Refusal to bargain

Section 8 (b) (3) of the Taft-Hartley Act makes it an unfair labor practice for a union to refuse to bargain. That provision should be included in any new labor law that is passed.

During these hearings, some witnesses have stated that such a provision is unnecessary because unions exist for the very purpose of collective bargaining. Such thinking is sheer sophistry. Whatever the purpose of unions may be, we all know that some unions frequently engage in only a superficial pretense of bargaining simply as a prelude to the use of coercive economic weapons. Such conduct on the part of an employer would subject him to an unfair labor practice order of the Labor Board, and perhaps an enforcing decree of the court of appeals. Why, I ask, should unions be accorded any different treatment?

(d) Featherbedding

The so-called antif Featherbedding section of the Taft-Hartley Act is perhaps not as clearly stated as it might be, but with the necessary clarifying revisions, that provision of the law should be retained.

(e) Strikes and secondary boycotts

The evils of secondary boycotts, sympathy strikes, and jurisdictional strikes are so readily apparent that they need no extensive discourse. The Taft-Hartley Act goes a part of the way toward eliminating the abusive use of these economic weapons. Those provisions of the Taft-Hartley Act are not unreasonable and there is no apparent necessity for weakening them.

The pending bill recognizes no unfair labor practices by unions except jurisdictional strikes and the use of strikes and secondary boycotts to compel an employer to deal with one union, at a time when another union is the certified or recognized representative of the employees or at a time when the employer is required by an order of the Labor Board to bargain with another union. And even as to those unfair labor practices, the bill fails to provide any speedy remedial procedure so that they would be permitted to continue and to cause irreparable damage until the sometimes very slow processes of the Labor Board have had time to function. The provisions of the pending bill which relate to unfair labor practices by unions are grossly inadequate.

(f) Use of economic weapons to compel recognition

Along this line I would like to suggest for your consideration a provision which was not contained in either the Wagner Act or the Taft-Hartley Act. That is a provision which would make it unlawful for a union which does not represent a

majority of the employees involved to incite a token strike or picket an employer's place of business for the purpose of compelling the employer to recognize and deal with the union. The violation of that provision should be subject to injunctive relief in the Federal courts as well as subject to the Labor Boards remedial processes.

I would like to illustrate the necessity for this provision by reference to a specific situation.

An employer in St. Louis had had a contract, including a union shop provision, with a particular labor organization for several years. About a year ago, just prior to the expiration of the then current contract, the employees covered by the contract informed the employer that they did not desire to remain members of the union and that they would quit their jobs if they were compelled to be members. When the contract expired, the employer refused to execute a new contract unless and until the union demonstrated that it represented the employees. The union immediately began to picket the employer's premises.

In an attempt to settle the matter I, as the employer's authorized representative, told the employees that the employer had no objection whatever to recognizing the union as their representative. I told the union that if it could supply the required support for a union-shop election, the employer would consent to such an election, and that if the employees authorized a union-shop contract, the employer would sign such a contract. With all that, the union was unable to get a single employee to designate the union as his representative. The union continued its picket line for a while and withdrew it only under threat of a State court injunction.

The use of such tactics is not an exercise of freedom to organize. The situation I relate to you was an outright coercive program which had inherent within it the potential ruination of a business and the deprivation of a livelihood for the employees of that business, wholly against their will.

It seems to me that there has been a great deal of fuzzy thinking about the alleged inalienable right to strike and about the picket line as merely an exercise of the right of free speech. I think it is high time that some steps be taken to purify that thinking.

We no longer live by the law of the jungle except in matters relating to labor relations. I don't kill your cow because you steal my hog. I don't bomb your home because you wreck my car. I have my remedy under the law, and I seek it. But in labor relations it seems still to be proper to live by the sword and the buckler rather than by the code and the court. How long must we continue to live as savages in one sphere of activity while we live as a civilized people in all others?

Theory must be tempered by reality. Since our existence is real rather than theoretical, realities should be paramount to theories.

The law provides fair and impartial machinery for the determination of employees' desires concerning union representation. Through 13 years the Labor Board's election machinery has remained untarnished. That being true, why can't union recognition rest solely upon the will of the employees expressed at a Labor Board election rather than upon the coercive effect of a picket line? If freedom of speech encompasses the right to carry a picket sign, why not provide that the picket sign must be carried at a spot where it will express its message without ruining a business and thereby depriving nonresponsive wage earners of an opportunity to live?

I earnestly hope that this committee will seriously consider the wisdom of a law which will make collective bargaining dependent upon the will of the employees involved, rather than upon the coercive effect of economic weapons.

(g) Remedial procedures

During the course of these hearings a great deal has been said about the use of the injunctive process as an aid to the handling of labor disputes. On this point, I do not care to burden the record, but I would like to cast our ballot.

We think that section 10 (j) of the Taft-Hartley Act which gives the Labor Board discretionary power to seek injunctive relief from unfair labor practices should be repealed. The conduct with respect to which such discretionary power is apt to be exercised is of such a nature that irreparable damage cannot reasonably be expected, and such damage as may result, may be adequately remedied by other procedures provided in the law.

We think that the injunctive relief provided by section 10 (1) of the Taft-Hartley Act should be preserved. If the Board's general counsel, as he says, is embarrassed at "hunting a field mouse with a 16-inch gun" we suggest that the

law provide that private litigants be empowered to seek the injunctive relief and thereby relieve the general counsel of all possible embarrassment.

We think that the provision of the Taft-Hartley Act which provides for injunctive relief from strikes which imperil the national welfare should be preserved.

We think that the sections of the Taft-Hartley Act which provide that unions may be sued for breach of contract and for damages arising from sympathy strikes, jurisdictional strikes, and secondary boycotts should be retained.

3. ANTI-COMMUNIST AFFIDAVITS

The provisions of the Taft-Hartley Act which require the filing of anti-Communist affidavits present a perplexing problem.

An employer is required to bargain with the union which represents its employees. Frequently employers are required to produce goods for the Government under security conditions, with respect to which Communist sympathies are repugnant. Absent the anti-Communist provisions of the present law, what is an employer to do?

It would seem at first blush that the problem of Communist influence could best be dealt with as a matter of general law rather than as a part of the Nation's labor law. But we all know that organized labor has provided a fertile field for Communist activity. When we fight a disease of the body we start where that disease is most pronounced. It is not unreasonable that in fighting a disease of the mind that we would do likewise.

The Taft-Hartley Act does not make it unlawful to recognize and deal with Communist-dominated unions. It simply withdraws all governmental assistance from the organizational activities of such unions. The declared policy of our Government is anti-Communist. The declared policy of our Government is to encourage collective bargaining. Unless governmental assistance is denied Communist-dominated unions, those two policies are irreconcilable. Under the Taft-Hartley Act, the Government has simply withdrawn its support of Communist-dominated unions. Wagner Electric firmly believes that that withdrawal of assistance is proper and that the anti-Communist provisions of the Taft-Hartley Act should be retained.

4. UNION SECURITY

The Taft-Hartley Act outlaws the closed shop. The pending bill gives governmental sanction to closed-shop contracts. Wagner Electric Corp. is opposed to the inherent principles of the closed shop and urges the retention of the present ban on closed-shop contracts.

Theoretically, it would be nice to leave the closed shop to collective bargaining. But the closed shop has inherent within it the closed union. The very purpose of a closed shop is to deny work opportunities to all but a favorite few. If it were possible effectively to outlaw closed unions, that might take care of the problems which stem from the closed shop. Since governmental regulation of union membership is not feasible, the only reasonable alternative is to outlaw the closed shop.

Moreover, Wagner Electric Corp. is unalterably opposed to the principles of the union shop. Wagner feels that employees ought not be compelled to join a union against their will and accordingly believes that maintenance of membership with adequate escape periods, which permits a free choice, should be the highest type of union security contract permitted under the law. Hence, Wagner Electric would prefer to see the union shop as well as the closed shop outlawed.

However, if union-shop contracts are to receive governmental sanction, Wagner Electric believes that the provisions of the present law which restrict the application of union-shop contracts to employees who fail to discharge their financial obligations to the union should be preserved. That is to say, discharge or disciplinary action pursuant to the terms of closed-shop contracts should be permitted only if the employee fails to tender payment of his initiation fees, membership dues, and what other financial obligations may be permitted by the law.

Wagner Electric believes that the provisions of the present law which require that union security elections be held by the Labor Board before such contracts are entered into should be repealed. Experience has demonstrated that that provision of the law serves no useful purpose and if union shop contracts are to be permitted, the question of whether or not a particular employer and a particular union enter into such a contract should be left to collection bargaining.

5. FREE SPEECH

The Taft-Hartley Act expressly protects the right of employers, as well as employees and unions to express their views with respect to unions and related matters. Under the pending bill the free speech provision of the Taft-Hartley Act would be repealed. Wagner Electric believes that the repeal of that section of the Taft-Hartley Act would be a serious mistake and we urge upon you the necessity for the preservation of section 8 (c) of the Taft-Hartley Act, or its equivalent.

We are all well acquainted with the Labor Board's treatment of the exercise of free speech by employers under the Wagner Act. A matter of such vital and fundamental importance should not be left to the discretion of any administrative body. We do not seek a license to interfere with, restrain, coerce, or threaten employees with respect to the exercise of the rights guaranteed to them by Federal labor statutes. We seek only the protection of our right to express our views, arguments, and opinions relative to labor matters which the employees are entitled to have, and must have, if they are to make an intelligent decision on the important question of whether or not they will be collectively represented by a particular labor organization.

During the past 12 or 14 years, unions have come of age. They no longer need the services of a wet nurse to pamper and coddle them. They cannot be unduly harmed by an employer's mere expression of his views with respect to the rightness and the wisdom of union membership and collective activity.

It is true that immediately prior to the passage of the Taft-Hartley Act the Labor Board began to show an increased awareness of the employer's right to speak, but we should not be deceived by arguments to the effect that that experience demonstrates the wisdom of leaving the matter of free speech to administrative discretion. The right to express one's views is a basic, fundamental, constitutional right. Theoretically, the provisions of our constitution should provide adequate protection of that right, but expediency during the effective period of the Wagner Act, conclusively demonstrates that that is not wholly so, and for that reason it is imperative that any new labor law contain an express provision protecting the right of employers to express their views, arguments, and opinions with respect to unions and collective bargaining.

6. REPRESENTATION PROCEEDINGS

The foundation of our Federal labor law is, and since 1935, has been, the desire of employees for collective bargaining expressed at Labor Board conducted elections.

The Wagner Act, as the Labor Board first construed it, permitted only the filing of petitions for certification by unions or, in a very few rare cases, by a group of employees. There were no provisions for petitioning the Board to decertify a union once certified or for the filing of petitions for an election by an employer regardless of the circumstances with which he might be confronted.

Toward the end of the effective period of the Wagner Act the Labor Board began to permit employers to file petitions for elections if the employer was confronted with conflicting claims by two or more labor organizations to represent the same employees. That was a sensible innovation because it permitted employers to seek an official determination of the question as to which union he was obligated to recognize. But even that innovation provided no machinery whereby an employer could initiate proceedings to resolve his doubts as to the representative status of a union which claimed to represent his employees if only one union claimed to represent them and if that union refused to seek a Labor Board election.

The Taft-Hartley Act preserves the machinery created by the Wagner Act which enables unions or groups of employees to petition the Board for an election. In addition it provides machinery for the decertification of unions which have been previously certified, and it also provides that an employer may file a petition for an election to determine whether or not a labor organization actually represents his employees even though only one organization makes such claims.

During the course of these hearings it has been said that the provision of the Taft-Hartley Act which permits an employer to file a petition for election should be repealed because it makes possible the filing of a petition by an employer at an inopportune moment so far as union organizational activity is concerned. Indeed, it has been said that under the present law an employer is able to file a petition on the very day that a union organizer hits town and can thereby defeat and destroy all attempts to organize his employees. Such statements are gross

falsehoods, and if not actually malicious they are at best based upon a misunderstanding of section 9 (c) (1) (B) of the Taft-Hartley Act. That provision of the present law states that an employer may file a petition for election when "one or more individuals or labor organizations have presented to him a claim to be recognized as the representative" of his employees. An accurate reading of that section clearly reveals that an employer may file a petition for election only when a union claims to represent his employees. If a union's organizational activities have reached the stage where the union can in good faith claim to represent a majority of the employees, there can be no objection to the determination of the truth or falsity of that claim even though the employer sets in motion the machinery for the determination of that question.

Under the present law an employer is unable to file a petition for an election at his mere whim or caprice and can do so only after the union has made a claim that it is entitled under the law to recognition. That being the case, the criticisms which have been leveled at the provision of the present law during the course of these hearings are wholly unfounded, and to date no reasonable argument has been made for the abolition of the employer's right to file election petitions. Wagner Electric Corp. urges that the provisions of the present law for the filing of decertification petitions and for the filing of election petitions by employers be preserved.

The foregoing expresses the views of the Wagner Electric Corp. with respect to the most serious inadequacies of the pending bill, and Wagner Electric urges this committee and this Congress to give serious and thoughtful consideration to the matters above discussed and to embody in any new labor legislation appropriate and adequate provisions with respect to those matters.

Respectfully submitted.

WAGNER ELECTRIC CORP.,
By WILLIAM F. GUFFEY, Jr.,
Counsel.

ST. LOUIS, Mo., *February 10, 1949.*

The CHAIRMAN. Are there any questions?

Senator HUMPHREY. Is Mr. Guffey going to be back tomorrow morning?

Senator MORSE. We are through with him.

Senator HUMPHREY. It is 5:30 now, and the rest of us may not be through with him.

The CHAIRMAN. Do you have any questions?

Senator HUMPHREY. Do you want to start now or wait until morning?

The CHAIRMAN. I want to find out how much we have.

Senator HUMPHREY. I have taken notes of a couple of things we ought to get some information on. For example, on page 10 he says:

We think that the injunctive relief provided by section 10 (1) of the Taft-Hartley Act should be preserved. If the Board's general counsel, as he says, is embarrassed at "hunting a field mouse with a 16-inch gun," we suggest that the law provide that private litigants be empowered to seek the injunctive relief and thereby relieve the general counsel of all possible embarrassment.

There is a whole series of questions we would like to ask about this principle of injunctive relief by private litigants, and I have some other questions to ask about his general views on the Taft-Hartley Act and his views as to the relationship and the balance between labor and management. I don't believe we can do that within 2 or 3 minutes.

The CHAIRMAN. Go ahead. We took 20 minutes of time. You are entitled to 20 minutes.

Senator HUMPHREY. I have other duties this evening. Since we are not having night sessions I have tried to readjust my life to a reasonable pattern of living.

The CHAIRMAN. The arrangement, Senator Humphrey, as you know—I didn't know it until we got started this afternoon—is that we give all of tomorrow morning to Mr. William Green and tomorrow

afternoon to these other witnesses. There is no telling when Mr. Guffey could come again.

Senator HUMPHREY. I will ask just a couple of questions for the record here.

This is a general question: Do you believe that the provisions of the Taft-Hartley Act, taking them in toto, have laid the basis for increasing in favor of management the imbalance of power between labor and management?

Mr. GUFFEY. I think that the provisions, generally speaking, of the Taft-Hartley Act have eliminated the lack of balance which the Wagner Act had come to have.

Senator HUMPHREY. When you say "lack of balance," what do you mean?

Mr. GUFFEY. Let me go back to the day that the Wagner Act was adopted.

Senator HUMPHREY. I know the history.

Mr. GUFFEY. I want to make it clear now I am speaking for myself. My personal opinion is that when the Wagner Act was passed there was an imbalance that had to be balanced, and I think the Wagner Act did a very good job of creating a balance as the situation then existed.

Senator HUMPHREY. You were with the National Labor Relations Board?

Mr. GUFFEY. Yes, sir.

Senator HUMPHREY. Do you recall whether or not the labor-management picture of peaceful relationships improved between 1935 and 1940, up to the time of the war, or did it disintegrate?

Senator DONNELL. I don't think Mr. Guffey was with the NLRB at the beginning of the operation of the Wagner Act.

Mr. GUFFEY. I started in June 1938.

Senator HUMPHREY. Let me ask you whether you think the pattern of labor-management relationships improved, or whether or not it was becoming intolerable, or whether it was disintegrating between 1938 and 1940.

Mr. GUFFEY. I think there was a point during the history of the Wagner Act during which it improved.

Senator HUMPHREY. What point would you say that was?

Mr. GUFFEY. I can't name a calendar date for you.

Senator HUMPHREY. Roughly speaking.

Mr. GUFFEY. I would say toward the end of the period of the Wagner Act there had begun to appear again an imbalance the other way, largely because I think that the Wagner Act resulted in tripling union membership, and I can't help but feel with strength and power there very frequently comes an abuse of power, and I think that toward the end of the Wagner Act period we had reached that stage where unions had acquired a strength and an influence in the sphere of management-labor relations where they were beginning to abuse the rights that they had.

I think management for a long time had been terrifically strained so far as this freedom of action with respect to unions was concerned, and that the time had come for another balancing of the situation as it existed at about the time the Taft-Hartley Act was passed.

Senator HUMPHREY. You are familiar with the decisions of the National Labor Relations Board in the last days prior to the war which reversed some of their earlier rulings?

Mr. GUFFEY. I try to keep familiar with them.

Senator HUMPHREY. You still say the favor was going to the labor side?

Mr. GUFFEY. I have seen changes in Board decisional policy that don't stay with us very long. It flounders back and forth.

Senator HUMPHREY. In a flexible society.

Mr. GUFFEY. In a law where the discretion rests almost entirely with the administrative agency and is not spelled out in the law, and I think some of those things were of such importance that they should not be left to the discretion of the agency so that they can be changed from year to year. They are more fundamental and should be written into the law.

Senator HUMPHREY. What would you term as a set of standards or a set of principles to determine what you call imbalance?

Mr. GUFFEY. You have asked me a question——

Senator HUMPHREY. I think it is a question we have to resolve somewhere along the line.

Mr. GUFFEY. I think it is impossible for me to sit here and give a curbstone opinion as to a set of standards that would be worth anything to anybody.

Senator HUMPHREY. You must have some idea when you make the statement that there is a lack of balance between labor and management. You must have a set of standards by which you measure that.

Mr. GUFFEY. Let me say that in the matter of free speech, which is a thing I feel pretty keenly about, I think in the ability of unions to say anything and everything they want to employees in order to induce them to join and designate the union as their representative was a tremendous power, and when used unwisely and without honesty, without any respect for what the facts were, it became coercive.

I think for an employer to be required to sit idly by and hear all those things said, many of which were untrue, and be unable to express even an opinion about them——

Senator HUMPHREY. Would you say free speech is one standard?

Mr. GUFFEY. Yes.

Senator HUMPHREY. Would you say profits was a standard?

Mr. GUFFEY. I don't think profits enter into the picture.

Senator HUMPHREY. You don't think profits enter into it? Do you think wages enter into it?

Mr. GUFFEY. Certainly.

Senator HUMPHREY. Don't you think profits could enter into it?

Mr. GUFFEY. I am not an economist.

Senator HUMPHREY. That is all the better. Now, we can talk straight to each other about this. Do you say wages do enter into the picture?

Mr. GUFFEY. I think that is right.

Senator HUMPHREY. That is part of labor-management relationships?

Mr. GUFFEY. Yes. Whether or not profit is a factor which should determine the value of a man's services, I do not know. I don't think so.

Senator HUMPHREY. You don't know whether or not the profit of an industry has anything to do with the value of a man's services?

Mr. GUFFEY. I don't think the profits of an industry ought to determine the value of a man's services.

Senator HUMPHREY. Would you say it would be a factor?

Mr. GUFFEY. It might be a factor in what the company is able to stand.

Senator HUMPHREY. What is the purpose of American industry? Isn't it to raise the standard of living, or would you say it was just profits?

Mr. GUFFEY. I wouldn't say it was just profits.

Senator HUMPHREY. What would you say it is?

Mr. GUFFEY. I think that you probably have expressed it.

Senator HUMPHREY. To raise the standard of living; that is the high ethical purpose. That is why we believe in a free economy.

Mr. GUFFEY. There are many purposes for the operation of an industry.

Senator HUMPHREY. Service, profit, but basically the ethical purpose, from all that I have ever read about industry, is to raise the standard of living of the American people.

Senator TART. Increase production.

Mr. GUFFEY. I have no serious quarrel with that.

Senator HUMPHREY. Would you say profits have something to do with business and its relationships to labor?

Mr. GUFFEY. I am willing to concede that profits have something to do with industry and its relation to labor, but whether or not it is a standard or conduct or balance or imbalance, I couldn't say.

Senator HUMPHREY. It does have something to do with it?

Mr. GUFFEY. I can't think it has a great deal.

Senator HUMPHREY. In other words, when the union and the employer are arguing, and the employer says, "Look, I can't pay those increased wages and continue in business: my business will not warrant it," you would say to the union that that doesn't make any difference.

Mr. GUFFEY. That is another question. That raises the question of whether or not a man says that in good faith as an answer to a request for an increase or whether or not he says it with his tongue in his cheek for the purpose of avoiding paying increased wages to his employees. I have no sympathy with an employer saying that when it is not true.

Senator HUMPHREY. How can you possibly make that statement and still say that profits are not a part of it?

Mr. GUFFEY. I say when an employer pleads his poverty as an excuse for not discussing a demand, then I think at that point profits have something to do with labor-management relations.

Senator HUMPHREY. Don't you think profits might have something to do with it when he doesn't plead his poverty?

Mr. GUFFEY. When it comes to the point where the union says, "It is true that you are paying \$3 an hour and everybody down the streets is only paying \$1 an hour, but look at your profits—you should give us \$5 an hour"—in that situation, I don't say they have any relation.

Senator HUMPHREY. I am not saying it is the whole factor, not the whole proposition. I do not believe you should pay people for something they do not do. I don't believe in free riders, but I am talking about whether or not the profit in terms of balance between labor and management has something to do with this picture of labor-management relationships.

Mr. GUFFEY. Can we dispose of it by saying that if profits generally, if industry is profitable and is making a big profit, that that profit ought to be reflected in the general standard of living?

Senator HUMPHREY. That is just what we could have said in the earlier part.

Mr. GUFFEY. Very well.

Senator HUMPHREY. That is, of course, true. Now, about this balance of power, I keep hearing about the balance of power. It always reminds me about the balance of power between Afghanistan and the United States. We have to worry that the Afghans, or some other great nation, might get too much strength.

Here we have an industry, and the figures are conclusive now, there isn't any guessing about this.

Let me ask you: Have the workers of America had to cash in many savings and reserves from the war period?

Mr. GUFFEY. I can't answer that question.

Senator HUMPHREY. The facts are available.

Mr. GUFFEY. Well, I presume they are, and there are lots of facts available that I don't know.

Senator HUMPHREY. But would you say that is correct from what you have heard?

Mr. GUFFEY. I don't know, but I will take your word for it.

Senator HUMPHREY. Isn't it true that for every one bond purchased by workers five are cashed in?

Mr. GUFFEY. I have no knowledge of that.

Senator HUMPHREY. The Treasury Department so indicates, I think.

Senator TAFT. I really don't think so, but we can get the figures some day probably.

Senator HUMPHREY. It is true that from 1940 to 1948, after all taxes were deducted, after all of the "gimmicks" that one can use in the income tax law were used for purposes of reserves and plant replacements and depreciation, and those things that you and I individually do not get, there still remained one hundred and six billion seven hundred plus millions of dollars net profits in American industry.

It is still true that in America thirty-some-odd percent—I checked these figures the other day, and I will just give them to you again—it is 31 percent of the American families who have a cash income under \$2,000 a year. Thirty-one percent of the American families.

It is also true that there are 52,000,000 nonagricultural employees in this country, nonagricultural, and there are only approximately 16,000,000 organized workers in this Nation.

Now, with 16,000,000 organized workers out of 52,000,000 available nonagricultural employees, with 31 percent of the families of this country with a cash income of under \$2,000 a year, with corporate profits being one hundred and six billion seven hundred some million dollars in 8 years, are you going to sit there and tell me there is an imbalance of power in favor of labor?

Mr. GUFFEY. Senator, I think those figures are like all figures. You can do just about anything you want to with them, and if you read off the figure which represents corporate profits, it doesn't mean a thing except in relation to invested capital. Understand, I am no economist, but I am shooting off words. I don't know whether this is great or small. If it is divided where it belongs, it might amount to 6 cents an hour.

Senator HUMPHREY. It means quite a bit, does it not?

Mr. GUFFEY. It is imposing, the figures are imposing, I grant you that.

Senator HUMPHREY. Very imposing.

Mr. GUFFEY. But when you get all the necessary elements into the picture, I don't know whether they are as imposing as they are when you read them.

Senator HUMPHREY. They are very imposing on capital investment, very imposing. I would be glad to see that you get a copy of this economic report the President furnished to the Congress dated January 1949, and the one for 1948 is equally imposing.

The argument nowadays is on the profit per unit of sale or per unit of service, some percentage, but no one will deny that on the basis of capital invested the percentage is terrific.

Mr. GUFFEY. If you took, too, the figure for the pay roll for this country, it would be an imposing figure, but it would lose some of its imposing aspect when you see where it goes. Now I certainly am not equipped to sit here and discuss what those figures mean.

Senator HUMPHREY. You are equipped to give us advice on this matter of labor-management relationships, and we are not talking about law now, but we are talking about human relationships. You can legalize this thing, but what we are talking about is whether or not in this relationship between labor and capital there is a reasonable sense of equity.

Let me ask you this: I know there is no perfection in society, I realize that, and let me get the record crystal clear and say I am not one of those who believe that labor is simon pure, I am not one who believes it never has made a mistake, and I am not going to underwrite their abuses. They will hear it from me again as they have in the past, but let's say that prior to the time of the Wagner Act, as you by your own words have said, and other witnesses have said, there was gross inequity.

Following the Wagner Act, we had the La Follette committee report, and I ask you as a neutral observer, as a good American citizen, whether it revealed human exploitation and gangsterism. Did it reveal definite violations on the part of people trying to destroy union organization?

Mr. GUFFEY. I think it reveals, as you imply, a good bit of gangsterism, and it was on the other side, too, and I would like to see gangsterism eliminated from both sides.

Senator HUMPHREY. That is a nice statement. We are all against sin, and we are all for fidelity and integrity, but the point is: What did the substance of the report reveal after the passage of the Wagner Act?

Mr. GUFFEY. I know the substance of the report, and I know there were some very unsavory things contained in it.

Senator HUMPHREY. Such unsavory things as having innocent bystanders shot down in the streets, such things as having union organizers beaten, such things as having innocent people who were surmised to be labor organizers liquidated, such things as private armies being maintained.

Mr. GUFFEY. And only 6 weeks ago the residence of a man in Bellville had a bomb thrown in the living room by a union.

Senator HUMPHREY. Has it been proved?

Mr. GUFFEY. Yes.

Senator HUMPHREY. That should be prosecuted. I want to point out that when we talk about balancing this economy, this balance of the economy, it reminds me of some of the football rules. They say you have 11 men on each side. We have 11 men, we all have the same rules as to what is a foul. We all have the same time period for each quarter, we all have the right of an equal number of substitutions. Therefore, Center College plays the University of Michigan. That is balance. Is that balance even though you have the rules equal?

Mr. GUFFEY. The example is not a good parallel.

Senator HUMPHREY. It has been used quite prolifically in this testimony.

The CHAIRMAN. I have to stop the hearing because if we infringe on time, somebody is going to be cheated here the way this is divided.

Senator HUMPHREY. That is what I asked about in the beginning. I would just simply like to say that it is about time we explored this whole concept of what we call equity and balance in labor-management relationships, and I think it is about time we asked each witness what he means by that.

The CHAIRMAN. Very well. We will stand in recess until 9:30 in the morning.

(Whereupon, at 5:50 p. m., the committee adjourned, to reconvene at 9:30 a. m., Tuesday, February 15, 1949.)

LABOR RELATIONS

TUESDAY, FEBRUARY 15, 1949

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D. C.

The committee met at 9:30 a. m., pursuant to adjournment in the committee room, United States Capitol, Senator Elbert D. Thomas (chairman) presiding.

Present: Senators Thomas (chairman), Murray, Pepper, Hill, Neely, Douglas, Humphrey, Withers, Taft, Aiken, Smith (of New Jersey), Morse, and Donnell.

The CHAIRMAN. The committee will be in order.

At this point I will ask the reporter to place in the record a letter from Mr. Paul M. Herzog, Chairman of the National Labor Relations Board, dated February 8, 1949.

(The letter referred to follows:)

NATIONAL LABOR RELATIONS BOARD.
Washington 25, D. C., February 8, 1949.

HON. ELBERT THOMAS,
*Chairman, Committee on Labor and Public Welfare,
United States Senate, Washington, D. C.*

DEAR SENATOR THOMAS: When I testified in behalf of the Board before the Committee on Labor and Public Welfare on February 2, I was asked three statistical questions on which I did not have the exact answers readily at hand.

Senator Hill inquired (at p. 289 of the typewritten transcript) how many elections had been granted on employer petitions. During the 15 months from the effective date of the Taft-Hartley Act to November 30, 1948, the Board members decided 31 cases involving employer petitions. Elections were directed in 21 of these; petitions were dismissed in the remaining 10.

In replying to Senator Taft at page 258, I was mistaken in saying that the Board had already issued a "dozen decisions" on cases arising under section 9 (b) of the amended act. Actually only five formal opinions have issued in such cases. At least six others have been passed upon and decided by the Board members, but drafting of all the opinions has not been completed. Consequently the latter have not been served on the parties or made public as of this date, although they will be very shortly.

Thirty-nine cases arising under section 8 (b) (including the 11 mentioned in the preceding paragraph) have already been transferred to the Board members' offices following the issuance of trial examiners' reports. All but two of these (which were only transferred to the Board itself within the past month) have been assigned to Board members and their legal staffs for analysis of the records. In a few of these cases, tentative decisions have already been reached by the Board members, following oral argument or consideration of the records and briefs.

I should add that the fact that so few section 8 (b) decisions have issued is consistent with Board experience over the years. The section has been in effect for 16 months, and it is not unusual, although regrettable of course, to have decisions in unfair labor practice cases not issue until well over a year following the original filing of a charge. This is especially likely where cases involve new, diffi-

cult, or highly controversial provisions of the act. Section 8 (b) cases are likely to possess all those attributes.

Unfortunately, many of the early cases selected by the general counsel for trial involved border-line or unusually intricate issues, which has greatly increased the time necessary for the Board members to dispose of them. Had the issues been more selectively chosen—as they were in the early years of the Wagner Act—or had the cases been better tried by his field representatives in several instances, the Board could have issued a number of additional decisions many months ago.

Responding to a question from Senator Douglas at page 358, I gave a rough guess as to the Board's success in the United States courts of appeal. On examining the Board's twelfth annual report, which summarizes the court litigation record from 1936 to 1947, I find that Board orders were set aside in only 12.6 percent of the 705 cases, and remanded to the Board for further proceeding in another 1.6 percent. In the remaining 85.8 percent Board orders were enforced by the Federal courts, in 59.6 percent in their entirety, and in 26.2 percent with some modifications. In the Supreme Court of the United States, the record was even better. In 91.5 percent of the 59 cases brought to that tribunal the Board's decisions were enforced, and in only 15.2 percent of these with any modification at all.

You may wish to place this letter in the printed record at some appropriate place, and also to call its contents to the attention of Senators Hill, Taft, and Douglas.

Very sincerely yours,

PAUL M. HERZOG, *Chairman.*

The CHAIRMAN. President Green, please. Will you state what you want to have appear in the record about you, President Green, and then proceed in the way in which you wish?

STATEMENT OF WILLIAM GREEN, PRESIDENT, AMERICAN FEDERATION OF LABOR, ACCOMPANIED BY LEWIS G. HINES, LEGISLATIVE REPRESENTATIVE; HERBERT S. THATCHER, AND JAMES A. GLENN, ATTORNEYS

Mr. GREEN. Thank you.

Mr. Chairman and members of the committee, I have a brief statement I should like to present for your information and consideration.

The CHAIRMAN. You have a longer statement for the record? I imagine you were informed about the rules, President Green. Is this the brief one?

Mr. GREEN. That is the whole statement.

The CHAIRMAN. It will appear in the record.

Mr. GREEN. First of all, I wish to say that I welcome this opportunity to present to you the decision of the representatives of the 8,000,000 members of the American Federation of Labor regarding the Taft-Hartley law, its repeal and the reenactment of the Wagner Act with amendments, which would be thoroughly considered, acceptable, and satisfactory. I thank you for the opportunity you have accorded me to do this.

This action was taken at the sixty-seventh annual convention of the American Federation of Labor, which was held at Cincinnati last November. Those who participated in the deliberations of said convention definitely and unanimously decided to call upon Congress to repeal the Taft-Hartley law; then following said action to reenact the Wagner Act of July 5, 1935, with such amendments as seemed necessary, acceptable, and satisfactory. However, your committee decided to provide for the repeal of the Taft-Hartley law and the reenactment

of the Wagner Act with amendments at the same time. This, I understand, is the procedure provided for in Senate bill 249.

The Taft-Hartley law was passed over the strong and practically universal opposition of labor. Working men and women throughout the Nation protested against the passage of this objectionable legislation. This opposition was based upon the knowledge of labor that it was impracticable, unworkable, and destructive of the common elemental rights of labor. Time and experience have shown that labor was right and the sponsors of the bill were wrong. This outcome is traceable to the fact that the action of the sponsors of this bill was based upon a mere academic consideration of economic, industrial, and labor-management problems, while the opposition of labor—which opposed it—was based upon a practical and experimental knowledge of said problems.

Free collective bargaining and sound labor-management relationship is a large part of the basis upon which a sound national economy rests. When the exercise of this right is denied either to labor or management, by legislation or otherwise, the national structure is seriously affected. Labor cannot be reconciled by merely telling it that legislation which it knows to be bad is good for it. Why should labor be denied the right to engage in free collective bargaining and to negotiate an agreement with employers, acceptable and satisfactory to both? The Taft-Hartley law makes it a crime for labor and management to do this. This one feature in the Taft-Hartley law has created widespread bitterness, resentment, and even rebellion among the membership of organized labor throughout the Nation. The resentment of labor in the United States to the Taft-Hartley law is as uncompromising and rigid as was the opposition of our forefathers, the colonists, to Great Britain when it imposed upon them government without representation, and of the working men and women of Great Britain when Parliament passed the Trades Disputes and the Trades Union Act of 1927. Therefore may I, in behalf of those whom I have the honor to represent, appeal to this committee, to the Members of the Senate, and to the Congress of the United States to decisively repeal the Taft-Hartley law in its entirety.

I respectfully supplement this request by urging you on this occasion to reenact the Wagner Act with amendments which would be constructive and acceptable. Such action should provide for a minimum of interference on the part of the Government in management-labor relationships and in collective bargaining.

At a recent meeting of the executive council which was concluded on February 8, careful and analytical consideration was given to each section of Senate bill 249. This was followed by unanimous approval of each section of said bill, including Title II—Mediation and Arbitration, which provides for the reestablishment of the United States Conciliation Service in the Department of Labor. For more than 30 years the Mediation and Conciliation Service was an integral part of the Department of Labor. The Mediation and Conciliation Service made an excellent record during all those years in preventing industrial disputes and in the settlement of industrial controversies through mediation and conciliation. Labor feels that the Department of Labor is really the clearinghouse for industrial problems and is firmly convinced that all agencies having to do with labor problems, labor controversies, and labor-management relations, should be lo-

cated within the Department of Labor. Labor deplored the action taken when the Mediation and Arbitration Service was created as an independent agency. It now appeals to Congress to return it to the Department of Labor.

I assure you, in approving this bill, the executive council was moved by a deep consciousness of its obligations to serve the public interest, to promote labor-management cooperation, and to establish and maintain free collective bargaining, all of which is essential to the preservation and maintenance of a sound national economy. I, therefore, express to this committee and to the Members of the Eighty-first Congress the definite approval of the American Federation of Labor of Senate bill 249, with the following slight amendments, which are as follows:

Section 105 of the present bill, pages 4 and 5, purports to eliminate the further exercise of Board and Federal court jurisdiction in all matters in which the jurisdiction of the Board or of the Federal courts has been or could have been invoked under the Taft-Hartley Act, unless jurisdiction in such matters is retained in the Board or Federal courts by the provisions of the present bill.

The language of this section, however, could be made more expressive of this intent to remove liabilities imposed by the Taft-Hartley Act. As written, this section bars actions or proceedings under the National Labor Relations Act, as amended by the Labor-Management Relations Act, 1947, the Taft-Hartley Act. The Taft-Hartley Act, however, contains five titles. Only title I amended the earlier National Labor Relations Act. Thus, as presently written, the bill would bar only those actions or proceedings authorized under title I of the Taft-Hartley Act. It would not, for example, bar actions or proceedings instituted under titles II and III of the Taft-Hartley Act, such as civil damage suits against labor organizations, injunctions in national emergency cases, or criminal prosecutions against labor organizations and their officers for violation of the ban on union contributions and expenditures made in connection with Federal elections. Such damage suits and criminal prosecutions are presently authorized by title III of the Taft-Hartley Act. Injunctions in national-emergency cases are presently authorized by title II of that act. I suggest that the provisions of section 105 of the present bill be clarified so as to leave no doubt that not only title I, but titles II and III of the Taft-Hartley Act, are embraced within the language of section 105.

I should like to call the committee's attention to another clarifying change that should be made in section 105 of the present bill. The exact language of this section cancels the jurisdiction only of the Board and Federal courts to entertain certain proceedings authorized by the provisions of the Taft-Hartley Act. Section 303 (a) of the Taft-Hartley Act, however, makes it unlawful for any labor organization to engage in certain types of secondary boycotts and jurisdictional disputes, and section 303 (b) authorizes any person injured in his business or property by reason of any violation of section 303 (a) to sue, not only in the Federal courts, but "in any other court having jurisdiction of the parties"—which would seem to include State courts—and to recover damages and the cost of the suit.

Since it appears most likely that section 105 of the present bill intended to foreclose all liability imposed by the Taft-Hartley Act and enforceable in any court, Federal or State, the provisions of this sec-

tion should be made more definite by express language embracing within its coverage damage suits instituted in State courts or "in any court having jurisdiction of the parties."

Section 405 of title IV of the present bill, pages 21 and 22, states that the provisions of titles II and III of the bill shall not be applicable with respect to any matter which is subject to the provisions of the Railway Labor Act, as amended.

It is quite evident that the sponsors of the present bill, in proposing section 405, were of the opinion that the National Labor Relations Act, as it existed prior to its amendment by title I of the Taft-Hartley Act, eliminated from its coverage individuals employed by an employer subject to the Railway Labor Act. Because of this, and since title I of the present bill is a reenactment of the original National Labor Relations Act, with certain amendments, it was, no doubt, felt unnecessary to extend the proviso of section 405 to title I of the present bill.

The National Labor Relations Act, prior to its amendment by the Taft-Hartley Act, however, did not by any express language exempt from its provisions individuals employed by an employer subject to the Railway Labor Act. Such exemption was, of course, not necessary since the National Labor Relations Act did not contain any unfair-labor practices on the part of labor organizations or employees.

It is suggested, therefore, that it be made definite in the present bill that individuals employed by an employer subject to the Railway Labor Act are completely exempted from the coverage of the present bill.

Section 108 of the present bill, pages 10 and 11, makes it an unfair labor practice for "an employer or a labor organization" to terminate or modify a collective-bargaining agreement unless a 30-day notice of termination or modification is given to the United States Conciliation Service. The notice required of a labor organization is not notice to an employer, but to a governmental body. Clearly this section is designed to aid and assist the United States Conciliation Service in carrying out the purposes of its being, as set forth in title II of the present bill. That being the case, the severe penalties that may attach to an unfair labor practice should not be made applicable to a failure to give the 30-day notice, which failure, by the way, may be unintentional, but nevertheless punishable. Under the present wording of the section, it might be possible for the Board to order cessation of the strike engaged in without such notice, or to penalize the strikers as by condoning their discharge.

I am of the opinion that the purposes of title II, Mediation and Arbitration, the United States Conciliation Service, of the present bill can best be carried out if section 108 of title I is eliminated entirely as an unfair labor practice and it is made a matter of "public policy" under section 204 of title II of the present bill that a 30-day notice be given of an intention to terminate or modify a collective-bargaining contract. I am certain that labor organizations affiliated with the American Federation of Labor will be happy to cooperate with the United States Conciliation Service by giving this notice and that it is entirely unnecessary to force the giving of this notice by making a failure to do so, an unfair labor practice.

While there is no objection to the requirement that notice be given, it would appear that the possible penalties are entirely too drastic for what might be mere inadvertence. Accordingly, if section 108 is

not removed as an unfair labor practice, as suggested, this section should be amended to provide that failure to give such notice shall subject the offender to a cease-and-desist order requiring only the giving of notices then and in the future.

Concerning myself with the language of section 108, as now written, I believe it needs clarification. It makes it an unfair labor practice "for an employer or a labor organization" to fail to give the required notice. It thus appears that the penalties of an unfair labor practice will attach to both parties even in a situation where both parties got together and by mutual agreement and without industrial disturbance modified a collective-bargaining contract or terminated one by entering into a new agreement, but failed to notify the United States Conciliation Service 30 days beforehand. I doubt very much that the sponsors of the bill desire section 108 to be applicable in such a situation.

Section 204 of the present bill, pages 14 and 15, places a duty on employers and employees to exert every reasonable effort to make and maintain collective-bargaining agreements for definite periods of time concerning (1) rates of pay, hours, and terms and conditions of work; (2) adequate notice of desire to terminate or change such agreements; (3) abstention from strikes, lock-outs, or other acts of economic coercion in violation of such agreements; and (4) procedures for the peaceful settlement of disputes involving the interpretation or application of such agreements. It also imposes the duty of participating fully and promptly in meetings undertaken by the United States Conciliation Service to aid in settling disputes.

The purpose of this section is to encourage the making and maintaining of collective-bargaining agreements containing the four provisions enumerated above and to aid in the settling of labor-management disputes. This is a most commendable purpose. Such objective should be sought, however, by the voluntary and cooperative action of parties to collective-bargaining agreements. It should not be imposed by Government compulsion.

There is danger that the term "it shall be the duty," appearing in section 204, lines 15 and 16 of page 14 of the bill, might be deemed to make the specified duties mandatory in nature and to authorize injunctions or damage suits in States or even Federal courts in case of failure to perform such duties. This construction would involve the possibility of injunction suits in early stages of negotiations and even a possibility of compulsory arbitration. I do not think that is the intention of the sponsors of the present bill.

I therefore suggest that the phrase "it shall be the duty of employers and employees and their representatives" be eliminated from section 204 of the present bill and that the first four lines of section 204—lines 13 to 17, inclusive, on page 14—be redrafted to read that it be the public policy of the United States, in order to prevent or minimize labor disputes affecting the free flow of commerce or threatening consequences injurious to the general welfare that employers and employees, and their representatives should do the things enumerated in section 204 (a) and (b).

Section 205 of the present bill, pages 15 and 16, states that it is the public policy of the United States that a collective-bargaining agreement shall provide procedures for the referral of disputes, growing out of the interpretation or application of the agreement, to

final and binding arbitration. This section is expressive of public policy only, and apparently is not designed to place a mandatory duty upon parties to an agreement to provide therein the procedures mentioned. To make this more certain, I suggest that the word "shall" contained in the third line of this section, line 10, page 15, be changed to "should."

Sections 301, 302, and 303 of the present bill deal with national emergency work stoppages. I have examined these sections and the other sections of the present bill and am happy to find no language, which in my opinion, provides for the use of injunctions in these emergency work stoppages. My views concerning the use of injunctions in labor disputes are well known. Those I represent are unequivocally and adamantly opposed to their use in such situations, and if the present bill contained a provision for the use of injunctive sanctions in these emergency work stoppages, we would oppose it with all the force and vigor at our command.

If these suggestions are adopted and the bill is passed, I believe Congress will have established the foundation for a national labor policy based primarily on faith in the free collective-bargaining process as the principal means of achieving industrial peace and economic stability with a minimum of Federal interference or interjection into realms more properly supervised by local authorities. The bill will encourage collective bargaining instead of pretending to do so, while actually discouraging collective bargaining and sponsoring individual bargaining, as did the Taft-Hartley Act. It was because of this attempt to promote diametrically opposed theories that the Taft-Hartley Act was bound to fail.

I hope that this committee will give serious consideration to the foregoing suggestions.

Now, I will be pleased to answer any questions, if I can.

The CHAIRMAN. President Green, may I just try to clarify something you pointed out, and see if I understand you. You suggest on page 14 of the bill, in section 204, that we change the unfair labor practice theory to the theory of "it shall be the public policy."

Mr. GREEN. Yes.

The CHAIRMAN. Now, there have come several requests from various State conciliation services, State industrial organizations, and these requests came when we were considering the Taft-Hartley law also, requests that they be made part of the bill's machinery, so that they will be notified of the termination of contracts, and so on, the same as the Federal Conciliation Service is notified.

Now, in section 108, it is made an unfair labor practice if they are not notified.

If the States were considered in there, it would be an unfair labor practice if they, too, were not notified. Now, I am wondering, and this is merely a question to find out, whether your theory in regard to national policy under section 204 should not also apply to section 108, and then in each place you remove the unfair labor practice sanction, and from the standpoint of the one thing I am thinking about, the State organizations, it would be perfectly proper to include the State organizations.

Will you, therefore, look, President Green, at the point I have reference to in regard to section 108 on page 10, and see whether we would better the theory about voluntary action rather than forced

action, if we allowed, in section 6, the words to read "it shall be the national policy," rather than "it shall be an unfair labor practice for an employer or labor union to terminate or modify a collective-bargaining contract covering employees in industry without the 30-day notice."

I am wondering if your suggestion could not readily apply to both sections rather than just the one.

Mr. GREEN. Well, I think, Senator, it could very properly apply to both sections, as you have analyzed it, and referred to those sections just now. The theory we have is that instead of making it obligatory or compulsory for a labor union to notify the Mediation Service, give them a 30-day notice of the expiration of the contract, that they be required, as set forth in this act, to notify the employer. That seemed to be the proper thing to do because it knits them very closely in collective bargaining and maintains all steps, all relationships that exist between the two, intact, employers and employees engaged in collective bargaining. "I hereby notify you and my employer of the 30-day notice of the expiration of our contract."

The CHAIRMAN. In other words, if I may catch your spirit and see if I have interpreted it correctly, President Green, in working out to a conclusion any industry-labor dispute, if you can always keep it in the channel of the dispute itself, you come to an end quicker than when you allow certain other infringements to interfere with the main consideration of your dispute, and then if we make it an unfair labor practice—

Mr. GREEN. Yes.

The CHAIRMAN. Where people fail to notify, and then the discussion comes on the failure to notify instead of on the dispute.

Mr. GREEN. On the dispute, yes.

The CHAIRMAN. My theory, and this is I talking now—

Mr. GREEN. Yes.

The CHAIRMAN. My theory of industrial labor relations is that they shall generally be voluntary—that is, the understanding on both sides that you are trying to accomplish certain objectives—and that the more you put in, in the way of the accomplishment of those objectives, the harder and the more rigid becomes your collective bargaining; and the longer it takes to settle disputes.

Mr. GREEN. Yes; I think your reasoning is sound there, Senator, and what we need to do in order to promote productivity and sound management-labor relationships is to emphasize and support voluntary action on the part of both management and labor.

The CHAIRMAN. And the fewer the rules, the easier to understand them, is that not right?

Mr. GREEN. Yes, the easier to understand; that is right.

The CHAIRMAN. Excuse me for going ahead. I wanted to get that into the record.

Senator PEPPER. By all means.

The CHAIRMAN. The witness is yours under the rules.

Senator PEPPER. President Green, I believe you, in your statement, have corrected a misimpression which was referred to here in the hearings last week, that the executive council of the American Federation of Labor did not agree with that part of the bill, S. 249, which proposed that the Mediation Service should go back to its old home into the Department of Labor.

You stated in your direct statement that the executive council of the American Federation of Labor, meeting in the happy atmosphere of Florida [laughter] did endorse S. 249.

Mr. GREEN. That is right. That is right, Senator, and I emphasized that in my statement this morning because I gained the impression that a wrong understanding prevailed very widely.

There was some confusion, so in order that that would be cleared up, I have emphasized the position of the American Federation of Labor unreservedly in favor of the return of the Mediation Service to the Department of Labor.

Senator PEPPER. Now, Mr. Green, how many members of the executive council of the American Federation of Labor are there?

Mr. GREEN. Fifteen.

Senator PEPPER. Fifteen members; and you, as president of that executive council, represent how many members of the American Federation of Labor?

Mr. GREEN. Eight million.

Senator PEPPER. Eight million, distributed geographically all over the country?

Mr. GREEN. All over the United States and Canada.

Senator PEPPER. And touching almost every sphere of our economic and national life.

Mr. GREEN. That is right.

Senator PEPPER. So you are not only speaking here today, when you give your endorsement of S. 249, for yourself as president, but you have the express sanction of your executive council as well?

Mr. GREEN. That is right.

Senator PEPPER. And that council, and your own opinion, I believe, you say, in your direct statement, stems back to your national convention also?

Mr. GREEN. Yes, sir; it was held in Cincinnati last November.

Senator PEPPER. And your national convention went on record by resolution, I believe you said, as favoring the repeal of the Taft-Hartley law?

Mr. GREEN. Outright.

Senator PEPPER. The outright repeal of the Taft-Hartley law.

Mr. GREEN. Yes.

Senator PEPPER. That is, in your opinion, an opinion which reflects also the sentiment of your membership throughout the country?

Mr. GREEN. I know it does; yes.

Senator PEPPER. Mr. Green, in your statement you refer to the British Trades Disputes and Trades Union Act of 1927. That was passed in England by the Government.

Mr. GREEN. Parliament.

Senator PEPPER. By Parliament; and it followed, did it not, that general strike of 1926?

Mr. GREEN. I think it did; yes.

Senator PEPPER. When there was a sentiment in the country seeming to demand that there be some regulation of the power of labor unions?

Mr. GREEN. That is right.

Senator PEPPER. So the British Parliament passed, under a Conservative administration then in power, the Trades Disputes Act of 1927.

Mr. GREEN. Yes.

Senator PEPPER. Mr. Green, what was one of the first legislative actions taken by the Labor government when it came to power in Great Britain?

Mr. GREEN. Well, in 1947, and that was a little after the Labor Party came into power, this act was repealed and modified and changed suitable to the wishes and opinions of the membership of the British Trades Union Council.

Senator PEPPER. All those intervening years had the British labor movement been smarting under this assault upon them, and determined to remove this attack whenever they got the chance to do so?

Mr. GREEN. Just like, Senator, labor has here in America, under the Taft-Hartley law.

Senator PEPPER. Does labor feel that the Taft-Hartley law was an unfair attack, an unfair governmental assault upon the integrity of labor unions and the union movement of this country?

Mr. GREEN. Well, I would not, of course, want to question the motives of those who are responsible for the Taft-Hartley law, because I assume that all are moved by the desire to serve the public interests. But, as I pointed out in this statement, those who were responsible for it, and put it over, based their opinion upon academic reasoning, while labor bases their opposition upon a long-time experimental understanding of labor problems. I would not want to, of course, question the integrity—

Senator PEPPER. I did not mean to suggest, Mr. Green, in the questioning, any impeachment of the integrity of those, of course, who were the advocates of the measure. I used "unfair" in the sense of asking you whether it is the feeling of labor in this country that the bill was aimed more at labor than it was aimed at management and whether it imposed an unfair burden of duty upon labor which was correlatively imposed upon management, and therefore discriminated against labor in favor of management in its content.

Mr. GREEN. Well, we interpret it, and it is our position after a careful study and analysis of it, as being a blow at labor unions more than as legislation designed to promote labor-management cooperation.

It is designed, in our opinion, to make strong unions weak, and weaker unions still weaker.

Senator PEPPER. That is what I was getting at.

Now, Mr. Green, is that in contrast to the spirit and purpose of the Wagner Act? The original Wagner Act was designed for the purpose of strengthening the position of the worker by making it possible for him to be represented by and a member of a strong union; did it not?

Mr. GREEN. That was the interpretation we placed upon the Wagner Act.

Senator PEPPER. And so you see in the Taft-Hartley Act a reversal of policy in the field of labor-management legislation?

Mr. GREEN. Yes, in that respect.

Senator PEPPER. By the Congress in that respect?

Mr. GREEN. Yes.

Senator PEPPER. Now, Mr. Green, how long have you been active in the labor-union movement of our country?

Mr. GREEN. Well, I have been active in it for over a half century.

Senator PEPPER. How long have you been president of the American Federation of Labor?

Mr. GREEN. Twenty-five years. I succeeded Mr. Gompers in 1924.

Senator PEPPER. How many members did organized labor have in this country when the Wagner Act was passed?

Mr. GREEN. Well, when I became president 25 years ago, our membership was between two and three million.

Senator PEPPER. And you succeeded Mr. Samuel Gompers; did you not?

Mr. GREEN. Yes.

Senator PEPPER. Who was the pioneer labor-union leader of this country.

Mr. GREEN. Yes.

Senator PEPPER. Mr. Green, did the labor-union leadership, seeking to organize workers into organized movements for the betterment of their working conditions and the raising of living conditions, encounter any opposition from management prior to the passage of the Wagner Act?

Mr. GREEN. Oh, yes; very strong opposition. It was never easy sailing, Senator, because labor unions have established themselves as a result of hard fighting, of great sacrifices and of suffering, even on the part of the workers through the blacklist and through the discharge and the persecution that followed any attempt on the part of pioneering workers in the field of trade-unionism.

Senator PEPPER. Individual leaders were sometimes assaulted when they attempted to organize workers; were they not?

Mr. GREEN. Well, they were discharged from their jobs, as a rule, when it was found out that they were advocating trade-unionism.

Senator PEPPER. I mean, when organizers went into certain areas, were there records of their intimidation and assault?

Mr. GREEN. Yes, in West Virginia they were just pounded and hammered, many of them, to death.

Senator PEPPER. And management, when it discovered that a man was active, for example, in an organization movement, had the power, and I suppose resorted to it on occasion, to discharge the fellow as an evil influence in his plant, his factory.

Mr. GREEN. Yes; not only would they do that, but blacklist him and prevent him from getting a job some place else.

Senator PEPPER. So it was against that kind of background that labor observed the passage of the Wagner Act in 1935 by the Congress?

Mr. GREEN. That is right.

Senator PEPPER. That was a relatively simple act; was it not, Mr. Green—simply designed to promote collective bargaining between management and labor by raising the strength of the scattered individual workers into a union unity, through the permission that was conferred upon them and the protection that was given to the workers to organize themselves into unions to select their bargaining representatives, and then the duty that was imposed upon management to bargain collectively with their chosen representatives?

Mr. GREEN. That was the primary purpose of the act, as we understood it, to promote good relationship between employers and employees, cooperation between management and labor, and to es-

tablish, shall I say legally, the right of the workers to organize into trade-unions and bargain collectively with employers.

Senator PEPPER. Mr. Green, the Wagner Act did not attempt to regulate management in this country—that is, the internal affairs of corporations, or partnerships, or associations who were employers?

Mr. GREEN. I never understood it to do that.

Senator PEPPER. It did not attempt to regulate labor unions?

Mr. GREEN. Oh, no; not in the administrative affairs of the labor union.

Senator PEPPER. The internal affairs of the labor unions were left up to the labor unions?

Mr. GREEN. That is right.

Senator PEPPER. As they felt that was a democratic way of approaching the matter.

Now, is there any difference between the Wagner Act in its approach to the problem and in the attitude that it reflects and the Taft-Hartley law?

Mr. GREEN. Oh, yes; there is a tremendous difference. Under the Wagner Act, employers and employees could sit around the conference table and negotiate an agreement satisfactory and acceptable to both. Management agreed to it; labor agreed to it. It provided for the establishment of a sound union relationship, a collective-bargaining relationship between employers and employees; and management throughout the country, particularly in many lines of industry, had learned through experience that in the pursuit of such a policy they established sound management relationships, and as a result they made money.

Labor became more productive, developed to the high-period point of individual and collective production.

Now the Taft-Hartley law says it is a crime from you to sit around the conference table and negotiate an agreement, an American agreement, acceptable and satisfactory to management and labor.

Senator TAFT. You mean if it has a closed-shop provision in it—if it has a closed shop in it.

Mr. GREEN. Yes; provided for a closed-shop agreement.

Senator TAFT. I mean, hundreds of thousands of contracts have been made since the Taft-Hartley Act was enacted.

Senator PEPPER. That is, in other words, the Taft-Hartley law abolishes the so-called closed shop.

Mr. GREEN. It abolishes the closed-shop agreements.

Senator PEPPER. It forbids management and labor to sit around the conference table and to agree——

Mr. GREEN. Yes.

Senator PEPPER. That management will employ only people who subscribe to the same general principles and attitudes as the membership of a union that may be negotiating with them, and they have been employed in that plant.

Mr. GREEN. Yes. A hundred members employed in a plant want that unanimously, beg for it. Management finds that it promotes industrial peace, and, as I say, increased productivity because of the psychological situation with respect to their state of mind.

This law says you cannot do that, and yet, Senator, we won two world wars under the operation of that closed-shop plan, and our

workers in America under that reached the highest point of production of any workers in the world. Now you say after winning these wars it is a crime for us to do it.

Senator PEPPER. Mr. Green, and this act forbade that kind of free collective bargaining between employer and employees, notwithstanding the fact that in some unions that kind of collective bargaining had gone on satisfactorily for over half a century.

Mr. GREEN. Oh, yes, over all that period of time.

Senator PEPPER. Yes.

Mr. GREEN. The old unions—it developed out of the old unions. Unions developed that and learned their lessons in the hard school of experience.

Senator PEPPER. So that the Taft-Hartley law—

Mr. GREEN. The closed shop was not an overnight development. It came as a result of steady growth, development, expansion, and experience.

Senator PEPPER. But the Taft-Hartley Act intervened against that background of friendly collective-bargaining relationships of over half a century and made that sort of continuity impossible in the field.

Mr. GREEN. That is right. That is one of the chief objections that labor has to the Taft-Hartley law.

Senator PEPPER. Well, Mr. Green, did not the Taft-Hartley law also make more difficult the union shop along with forbidding the so-called closed shop. Did not the Taft-Hartley law, I say, make more difficult even the union shop, along with the abolition of the closed shop?

Mr. GREEN. Oh, yes; it imposed upon labor finer procedure that was costly and trying. It provided for elections and elections that should be held under Government regulations, and so forth.

Senator PEPPER. In those elections, did a majority of those present and voting determine the result of the election?

Mr. GREEN. I think—

Senator PEPPER. Or did it require a majority of all of those eligible to vote?

Mr. GREEN. Yes.

Senator PEPPER. A practice not required in the Congress or any political subdivisions of the country.

Mr. GREEN. Yes; it is not required anywhere in a democratic procedure except in this instance it is required.

Senator TAFT. You are a citizen of Ohio; are you not, Mr. Green?

Mr. GREEN. I beg pardon?

Senator TAFT. You are a citizen of Ohio. You know that our constitution requires a majority of the elected Members of the House of Representatives and the Senate in Ohio to vote for any bill before it becomes a law?

Mr. GREEN. It may be.

Senator PEPPER. Maybe the exception proves the rule, Mr. Green. [Laughter.] If the Senator will allow me—

Senator DONNELL. Mr. Senator, was not Mr. Green at one time a member of the legislature in Ohio; isn't that correct, Mr. Green?

Mr. GREEN. I beg pardon?

Senator DONNELL. Didn't you belong to the legislature in Ohio at one time?

Mr. GREEN. I was in the State legislature in Ohio; I was there.

Senator NEELY. We will not hold that against you.

Senator DONNELL. That is my recollection.

Senator PEPPER. Mr. Green, so you got the Taft-Hartley law that forbids the so-called closed shop freely arrived at in collective bargaining, and it makes more difficult even the union shop.

Mr. GREEN. Yes; it makes it quite difficult because of the procedure you must follow.

Senator PEPPER. Well, now, in addition to that, does not the Taft-Hartley law purport to regulate the relationship of the members of the union to the union itself?

Mr. GREEN. In a very great way. For instance, here is one thing that was always difficult for me to understand in the Taft-Hartley law. The union, like our American Federation of Labor, unions such as are in our American Federation of Labor, our unions, will not tolerate Communists as members of our unions. Under the Taft-Hartley law, if a union finds that some Communist has become a part of that local, and is active, of course, as best he can in promoting communism, and the local tries him, finds him guilty, suspends him and puts him out, they cannot, under the Taft-Hartley law, require the employer to discharge him because he is a Communist. They must work with him just the same as, after they found him guilty, he was before they had tried him.

Senator PEPPER. Well, Mr. Green—

Mr. GREEN. That is so long as he pays his dues; that is all he needs to do.

Senator PEPPER. Would you just refer—

Mr. GREEN. It prevents us from clearing out the Communists of our movement.

Senator PEPPER. That is just what I wanted to say. Has not the American Federation of Labor been doing a pretty effective job in getting the Communists out of the American Federation of Labor and out of any positions of leadership?

Mr. GREEN. I think we have done an excellent job in that respect.

Senator PEPPER. Do you believe the Taft-Hartley law has been the thing that has made what you have done possible or are you not cleaning house of your own initiative in a democratic way?

Mr. GREEN. We have succeeded in that respect before the Taft-Hartley law was passed; but the Taft-Hartley law made it difficult for us to continue to clear them out of our trade-unions.

Senator PEPPER. In other words, it impaired rather than aided your efforts.

Mr. GREEN. It deterred us rather than helped.

Senator PEPPER. Well, Mr. Green, the Taft-Hartley law also subjected labor to the requirement that it furnish a great deal of information about its internal structure and all to a public officer, the Secretary of Labor.

Mr. GREEN. Yes.

Senator PEPPER. It did not make any such requirements of corporations; did it?

Mr. GREEN. No; just labor.

Senator PEPPER. It did not impose any requirements upon corporations as to how they should treat their individual stockholders; did it?

Mr. GREEN. Oh, no.

Senator PEPPER. While it forbade an unincorporated association that is called a labor union, simply a group of citizens who associate themselves together, from making a political contribution or a political expenditure, it did not forbid any association of stockholders getting together into a stockholders' protective association and making either political contributions or expenditures, did it?

Mr. GREEN. I never understood the law to interfere in that at all.

Senator PEPPER. This bill made it possible to——

Mr. GREEN. And, listen, I want to add to what you have said: It requires labor people, labor representatives, it requires them to sign non-Communist affidavits before they can bargain collectively with their employers; but it did not require that any employer should sign a non-Communist affidavit.

Senator PEPPER. Or a non-Fascist affidavit.

Mr. GREEN. No, non-Fascist or non-Nazi.

Senator PEPPER. Mr. Green, would you not say that on the whole that there is just about as large a percentage of Fascists and Nazis among employers as there are Communists in the leadership of labor unions, the labor union movement, in this country?

Mr. GREEN. I think the number of Fascists among employers would balance up with the number of Communists in labor, and probably far exceed it.

Senator PEPPER. Mr. Green, the Taft-Hartley law also impaired, for the first time since its enactment, the Norris-LaGuardia Act, forbidding injunctions in labor disputes, did it not?

Mr. GREEN. That is right. It practically nullified the Norris-LaGuardia Act.

Senator PEPPER. Mr. Green, why does labor seem to have such a feeling of animosity toward the use of the injunction in labor disputes? What is behind that?

Mr. GREEN. Because it transfers government from the people to the courts, temporarily, at least. While the injunction is in effect we have government by judicial decree rather than government by the people or by the representatives of the people.

Senator PEPPER. Well, Mr. Green, what has been labor's experience with court injunctions in labor disputes?

Mr. GREEN. In injunctions?

Senator PEPPER. Yes.

Mr. GREEN. It has been a very tragic and sad experience. Injunctions were resorted to when, before the passage of the Norris-LaGuardia Act, they wanted to prevent a labor union like the American Federation of Labor, strongly American, devoted to the protection of our ideals and our principles of government, from feeding hungry men and women who were on strike against imposition on the part of employers or for higher wages.

I recall in one instance—pardon me for taking advantage of this opportunity—when I was the secretary-treasurer of the United Mine Workers of America, that in West Virginia a strike occurred at a mine, where the miners sought to organize into the United Mine Workers of America, and immediately when it was learned that they were doing that, the owner of the mine discharged them all; and own-

ing the homes, all the homes that were there, put them out of their homes.

They then became our wards because we were compelled to buy tents, lease ground, move them into the tents and live there.

Each week we fed them, supplied them money with which to feed them. The plant of the company was still shut down, so they came to Indianapolis and made a plea to Judge Anderson for an injunction to restrain us from feeding our wards, the wards who were living in tents on our leased property, women and children, who only ate what we supplied them each week.

The judge was just about ready to issue the injunction in order to break the strike and drive them back to work. I could not sit still in the court, and I arose and addressed the court—a most unusual experience; I was probably in contempt of court—I told him who I was, that I fed these people out of funds supplied by the United Mine Workers of America every week; that if I was prevented from doing so they would starve, and I said, “Now, judge, if I am compelled to decide as to whether I shall obey an injunction that you issue restraining me from feeding these people, or whether I will feed them and keep them from starving, I will disobey your injunction and feed them.”

Well, the judge said, “Mr. Green, I did not see it quite in that light.” He was very wonderful about it. He said, “I will have to give that further consideration.”

So he, as a result of it, modified it so that we could feed them at least temporarily for a limited length of time.

Now, that is a case that came up under the notorious reign of government by injunction.

Senator PEPPER. Who was trying to get that injunction?

Mr. GREEN. The owner of the coal mine, a corporation in West Virginia.

Senator PEPPER. Trying to use the courts to drive the workers back into the mines by the hunger of their wives and their children?

Mr. GREEN. That is right.

Senator DONNELL. But the court acceded to Mr. Green's request, if the Senator will permit me to say that—the court did not yield to that request for an injunction, and acceded to Mr. Green's eloquent plea in court.

Senator PEPPER. But management tried to get it, and in many cases the courts did do what management wanted them to do.

Mr. GREEN. The court was just about ready to give it until I told him the truth.

Senator PEPPER. I say there were numerous other cases, in cases comparable to that, when management did seek injunctions and did that.

Mr. GREEN. That is only one case. We have so many of them all over, cases which are similar to that.

Senator PEPPER. Mr. Green, that led to what was generally regarded as the abuse of the injunctive power?

Mr. GREEN. That is right.

Senator PEPPER. Where lawyers for management or from corporations would go to these lifetime-appointed Federal judges, sometimes who did not know the facts, did not live in the community where these

strikes were going on, and sometimes without a hearing on the part of the other side——

Mr. GREEN. That is right.

Senator PEPPER. And get these injunctions against the workers and use the injunction to break the strike.

Mr. GREEN. Yes.

Senator PEPPER. Or to impede its effectiveness.

Mr. GREEN. Yes.

Senator PEPPER. I say, was it not appreciation of the abuses of that kind of court weapon that led the Congress to adopt the Norris-LaGuardia Act?

Mr. GREEN. It was, yes; it was simply because of the opposition of labor to the use of and the resorting to the use of the injunction, which crystallized, and along with the public opinion, supported labor in its position, and as a result the Norris-LaGuardia Act was passed.

Senator PEPPER. Now, that Norris-LaGuardia Act was adopted in what year?

Mr. GREEN. 1932, I think.

Senator PEPPER. That was in 1932.

Mr. GREEN. 1932.

Senator PEPPER. And the sponsors were the late distinguished citizen and mayor of New York, Fiorello LaGuardia——

Mr. GREEN. Who was a Congressman.

Senator PEPPER. And the great Senator George W. Norris, of Nebraska; they were the sponsors of that legislation.

Mr. GREEN. Yes.

Senator PEPPER. And the Congress passed that legislation in 1932.

Now, Mr. Green, is it not a fact that from 1932 until the passage of the Taft-Hartley law in 1947 it was impossible to use the instrument of the injunction in labor disputes in the United States for all practical purposes?

Mr. GREEN. It was not resorted to except in—I cannot even recall now—a rare instance; but it may have been some rare instance, but scarcely ever. That is during all that period between 1932——

Senator TAFT. I must remind you of the Mine Workers case, the first United Mine Workers case, before the Taft-Hartley law.

Senator PEPPER. Mr. Chairman, I wish the Senator would allow us to conduct our examination.

Mr. GREEN. That was not a dispute between an employer and employees, as we have related it here. That was a strike in an emergency.

Senator PEPPER. And that was a case where the Government had seized the mines during the war under the War Disputes Act, and was in the operation of them and in control of them.

Mr. GREEN. Yes.

Senator PEPPER. And the court held in that case that these were Government employees.

Mr. GREEN. That is right.

Senator PEPPER. That is in quite a great deal of contrast with the provisions of the Taft-Hartley law, is it not?

Mr. GREEN. I should say so.

Senator PEPPER. Mr. Green, I do not know whether you have made any compilation of the figures or not, but Mr. Denham testified here yesterday—do you know Mr. Denham, the general counsel of the Labor Relations Board?

Mr. GREEN. Yes, sir.

Senator PEPPER. And Mr. Denham admitted that of 42 injunction suits which he had brought under the authority of the Taft-Hartley law, 40 of them were brought against labor unions, and two against management.

Did you know that was the record?

Mr. GREEN. I knew that that was about the record, but I did not have the exact figure.

Senator PEPPER. Mr. Green, do you know something about the powers of the general counsel of the National Labor Relations Board under the Taft-Hartley law?

Mr. GREEN. I know something about them; they are vast.

Senator PEPPER. It certainly would appear that there was no precedent from the labor-management laws of this country for such powers as he has, was there, before the Taft-Hartley law?

Mr. GREEN. I do not think there was any precedent ever established.

Senator PEPPER. Mr. Green, assuming that Mr. Denham, or assuming any general counsel for the NLRB, under the Taft-Hartley law, has the power to start any injunction suit that he wishes to start, without the power of anybody to stop him, without any agency or bureau's having the power to review his action before he initiates those suits. Suppose that official has that power, and suppose that official were biased against employees and in favor of employers. The Taft-Hartley law practically brings back the conditions, as a possibility, of resorting to these injunctions which existed prior to the Norris-LaGuardia Act?

Mr. GREEN. Oh, it brings it back with increasing force, as I see it.

Senator PEPPER. In other words, the management, by appealing to this general counsel who has this vast power, can go back again to getting injunctions in the Federal courts.

Mr. GREEN. Yes.

Senator PEPPER. By using him as their instrument to do that.

Mr. GREEN. Yes.

Senator PEPPER. Well, now, Mr. Green, this law was passed upon the representation to the American people that something had to be done to stop strikes, was it not? Was it not that which was generally said?

Mr. GREEN. I think that was generally stated.

Senator PEPPER. Has the Taft-Hartley law brought industrial peace to this country, and has it stopped strikes?

Mr. GREEN. Senator, the record speaks for itself. It has not prevented strikes, and you can never pass a law in a democracy such as ours which is going to prevent workers in America from going on strike for the purpose of redressing wrongs, and for the purpose of lifting their standard of living and their standard of life to higher levels.

Senator PEPPER. Now, let us take just briefly the background against which the Taft-Hartley law was passed. We spoke about the background against which the Wagner Act was passed in 1935.

When the war ended, it is or is it not a fact that controls were progressively removed from prices in this country?

Mr. GREEN. Oh, yes; a reasonable length of time following the close of the war.

Senator PEPPER. And is it or is it not a fact that in mid-1946 controls over prices were pretty effectively removed by the action of the Congress?

Mr. GREEN. Yes; I think that is true.

Senator PEPPER. Is it or is it not a fact that during that time when these controls were being relaxed that prices were rising, so that living costs of the workers of this country were rising faster than wage increases?

Mr. GREEN. Yes; the figures show that prices ascended and have been ascending pretty steadily over an extended period of time.

Senator PEPPER. Well, is it or is it not a fact that at the conclusion of the war the working time of the workers of the country was generally decreased on account of the discontinuance of overtime?

Mr. GREEN. Oh, yes; to that extent.

Senator PEPPER. What was the net effect of that upon the worker's pay envelope that he got at the end of the week?

Mr. GREEN. Well, it reduced his income.

Senator PEPPER. So that, on the one hand, you had prices steadily rising because controls were relaxed over here in Congress—

Mr. GREEN. Yes.

Senator PEPPER. And, on the other hand, you had the purchasing power of the worker steadily being diminished, first, because of these rising prices, without comparable rises in wages, and, secondly, because the war work being concluded, the overtime was eliminated and, therefore, the worker was working fewer hours a week and, therefore, got less compensation for the week.

Mr. GREEN. That was the economic situation we had to deal with and face.

Senator PEPPER. What did you leaders of labor do at that time in an effort to protect the living standards of the workers of this country?

Mr. GREEN. Well, we sought to bring about, at least, a corresponding increase with the rising prices.

Senator PEPPER. What did you encounter?

Mr. GREEN. We found that prices rose faster than the wages; that it was impossible for us to keep wages mounting, increasing, in proportion to the increase in prices.

Senator PEPPER. Well, what attitude were you confronted with on the part of management? What reaction did you get from management when you went to them with these demands?

Mr. GREEN. Well, as a result, management in conformity with their general policy resisted the attempts to increase wages, and it was only after weeks and weeks, in many instances, of collective bargaining, and then resort to strikes.

Senator PEPPER. Now, why did labor strike? I think that ought to be made clear by a man of your responsibility and position in the labor movement of this country. What was labor striking for?

Mr. GREEN. Well, labor was striking for the purpose of maintaining at least a semblance of the American standard of living. They wanted to maintain for their family the comforts of life as they had been enjoying them for some period of time, perhaps during the war when wages were fair, and in addition to that to educate their families, their children, and so on, and to give them the kind of a standard of living that squares with our American ideals.

Senator PEPPER. Well, now, Mr. Green, did that necessity which labor faced and accepted become what some of us might call the propaganda, and what others might call the argument, as to the necessity of adopting the rigid laws to govern and control the labor unions of this country and to regulate and if possible stop strikes?

Mr. GREEN. Well, of course, Senator, you know we can all have our own opinions based upon our analysis of the situation, but we never—labor never conceded that there was any necessity for the enactment of legislation restricting and limiting labor from the exercise of its legitimate rights in a free country.

There was no necessity for that. We feel that what is needed in a democracy such as ours is less of government in the business and labor affairs of the Nation, not more.

Senator PEPPER. Well, Mr. Green, I am sure you are familiar with the figures that were quoted here when Mr. Tobin, the Secretary of Labor, testified before this committee, who pointed out that in any comparable period after World War II there was a smaller percentage of man-days lost by strikes than in any relative period after World War I.

Are you familiar with those figures? Are those figures correct?

Mr. GREEN. Yes; we have the figures. Our research department has them. An analysis of the figures submitted by Secretary Tobin as compared with ours show that they are just about right. There is no question about that.

Senator PEPPER. So that this period of the strikes in late 1945 and in 1946 was almost the inevitable aftermath of all the economic dislocation of the greatest war in history.

Mr. GREEN. Oh, yes. Oh, we had to suffer from that, of course.

Senator PEPPER. Is it your opinion that if the Taft-Hartley law had not been enacted we would have achieved industrial peace sooner than we have achieved it under the Taft-Hartley law?

Mr. GREEN. Well, I do not agree that we have achieved it under the Taft-Hartley law, Senator, but I believe we could have made better progress in the development of industrial peace and cooperation if the Taft-Hartley law had never been passed.

We did it after World War I, and experience is the best teacher in the world. Where was there a better period of development—industrial development and expansion and cooperation between management and labor—than that which followed World War I as soon as the adjustments were made?

Senator PEPPER. Well, Mr. Green, do you think even now that the workers of this country have reached that level of living and of compensation which they should enjoy and which you aspire for them?

Mr. GREEN. No; they are never satisfied. They still want to enjoy more and more, higher standards of living, better standards of living, if possible. They are moved by that impulse to realize it for themselves and their families.

Senator PEPPER. Well, do you think corporate profits are such in this country as to indicate that management can share in an even more generous way the profits of the enterprise with the workers?

Mr. GREEN. There should be no doubt in the minds of anyone, after reading corporation reports during the last year or the last few months, there should not be any doubt in anybody's minds but that corpora-

tions could pay out of their earnings higher wages, even, to the workers than they are now paying without increasing the cost of the products they produce a single penny.

Senator PEPPER. One other question, Mr. Green. If as president of the American Federation of Labor you had gotten on the radio in the election of this last year and bought time with funds of the American Federation of Labor which had been fully authorized by your executive council and such other authority as you need for union action, and had made a speech saying that you thought one side or the other, or one candidate or the other would better serve the interest of the working people, state whether or not you would have been violating the Taft-Hartley law.

Mr. GREEN. Yes; and our attorneys went into that carefully, analyzed the provisions of the Taft-Hartley law dealing with contributions, political contributions, and advised us definitely that we could not spend any more money out of the treasuries of our unions for political purposes.

Senator PEPPER. No matter if in the regular way there was a unanimous vote from every union in the country?

Mr. GREEN. Yes.

Senator PEPPER. And unanimous approval of that course by every officer of the American Federation of Labor?

Mr. GREEN. Oh, yes; it did not make any difference on that. Wherever we were, we were subject to the provisions of this law that we resented, and yet were not permitted to use any of our union funds to try to defeat candidates for office who voted for it.

Senator PEPPER. Now, Mr. Green, do you find any evidence in the Taft-Hartley law that those who were the authors of this law seemed to think that a labor union was the same kind of thing as a corporation and that the two should be treated alike, and that when they talked about equality of treatment of the two they thought about the labor union as being substantially a labor corporation, whereas corporations were management's corporations?

Mr. GREEN. Well, I never got any impression on that so far as that is concerned.

Senator PEPPER. But did not they in this very matter of political contributions and expenditures amend the Corrupt Practices Act so as to put labor unions and corporations in the same category of treatment, forbid the corporation, which is an artificial legal entity, as the courts say, with no soul, did not they treat the labor union just exactly like the corporation?

Mr. GREEN. I think a comparison of the restrictions will show that they are very largely the same.

Senator PEPPER. In the treatment that they received?

Mr. GREEN. In that respect.

Senator PEPPER. Are they alike in character? Is the labor union the same as a corporation? What is a labor union?

Mr. GREEN. Why, there is all the difference in the world. A labor union really represents groups of workers who have joined together, mobilizing their economic strength for the purpose of promoting their economic welfare.

Senator PEPPER. A labor union is an aggregation of citizens, is it not, flesh-and-blood citizens of the country?

Mr. GREEN. Workers.

Senator PEPPER. It is not a person in the sense the courts say a corporate entity is a person, but a labor union is citizens, an aggregation of American citizens, so when you are curbing a labor union you are putting political curbs upon the political activities of a group of American citizens.

Mr. GREEN. That is right; of course you are right. You are right on that.

Senator PEPPER. Now, the last thing, Mr. Green, because it has not stopped strikes, because it has promoted industrial unrest, because it has impaired the representative character of the labor unions who improved the working conditions of the country, because labor feels that it unfairly discriminates against labor in that it imposes more numerous and onerous obligations upon labor than are imposed upon management, and because you believe that going back to the theory of free collective bargaining which was embodied in the charter of labor liberties in this country, the Wagner Act, you believe that the Congress now should adopt the Thomas bill, which proposes to adopt the Wagner Act again to shear it of the onerous characteristics of the Taft-Hartley law with such amendments as have been embodied in the Thomas bill?

Mr. GREEN. Well, that is my purpose in coming here this morning, for the purpose of acquainting the committee and the Congress with our position, and that is, we want the Taft-Hartley law repealed. We do not want any of it retained.

Then we favor the enactment of this bill that has been sponsored by your committee with such changes as I have suggested.

Now we have been inspired in doing this, we have been inspired by a desire to serve the public interest, to promote the welfare of the workers of the Nation, to develop sound collective-bargaining relationships and labor-management relationships, and to keep America a democracy such as we understand it to be with all citizens permitted to enjoy the individual rights accorded them by our Constitution.

Senator PEPPER. Thank you, Mr. Green.

Senator HILL. Mr. Green, you spoke about industrial workers and labor unions striving all the time to improve the standard of living of the people. Is not that what makes America click, the very fact that the American people are not satisfied, that they want to continue to go forward all the time? Is not that what made this country great?

Mr. GREEN. Of course, that is what made it great. The forefathers were not satisfied with the economic life they lived. They wanted better, and they fought for it. Those that survived them came along, did the same thing, and we are all moved by that desire, all classes of people.

Senator HILL. All classes, and as you move forward with one class you move forward the interests of all classes; is that not true?

Mr. GREEN. Naturally, you lift the whole standard.

Senator HILL. You lift the whole standard, and the truth is that in lifting the standard of the industrial worker you do not in any way do anything harmful to the standard of the other people, the other groups in this country, do you?

Mr. GREEN. Oh, it has its effects in that way.

Senator HILL. It has its effect, in lifting one group you lift the other groups; is that not true?

Mr. GREEN. You cannot lift one group to a high level and maintain it up there with the others on a low level. You have all got to come together.

Senator HILL. You have got to come together?

Mr. GREEN. That is right.

Senator HILL. As I said the other day, there has been a very studied effort in this country on the part of much of business to create in the mind of the farmer the idea that there is something antagonistic on the part of organized labor to the interests of the farmer. That is not true at all, is it?

Mr. GREEN. That is not true, and yet there are individuals who engage in spreading that propaganda.

Senator HILL. And seeking at all times to drive a wedge between the industrial worker and the farmer?

Mr. GREEN. Yes.

Senator HILL. Knowing that, if they can keep these two great groups divided, they can get them to fighting one another, that it will be to the interest of a small handful of selfish interests in this country; is that not right?

Mr. GREEN. That is right; and the record shows, Senator, that we have stood uncompromisingly with the farmers in support of their legislative program here in Washington, always approved it. We stood with them, called upon our friends in Congress to support them and to pass legislation that was in the interest of the farmers.

Senator HILL. In other words, you have strongly supported at all times—

Mr. GREEN. At all times.

Senator HILL. What we call the farm program?

Mr. GREEN. That is right.

Senator HILL. To advance the living?

Mr. GREEN. That is right.

Senator HILL. To promote the standard of living of the farmer?

Mr. GREEN. To build up the living standards of the Nation.

Senator HILL. Of the farmers; that is right; but is not this also true, that, no matter what kind of laws we pass, what kind of farm programs we put on the statute books, they in the final analysis cannot raise the standard of the farmer, they cannot improve his standard of living unless at the same time the industrial worker has a good standard of living. Is not that true?

Mr. GREEN. Oh, yes; that is the law of economics.

Senator HILL. The law of economics.

Mr. GREEN. And that operates in spite of artificial law.

Unless you create a market, a good market for farm products, the farmer will not prosper, but with a good market among the buying masses of the people then the farmers' standards are raised.

Senator HILL. In other words, every time you increase the purchasing power of your industrial workers, you give a better market for the farmers' products; is that not true?

Mr. GREEN. Absolutely; that is right. That is sound economics.

Senator HILL. So the welfare and the best interests of the industrial workers and the welfare and best interests of the farmer go hand in hand?

Mr. GREEN. Hand in hand. They are so closely linked and related that you cannot separate them.

Senator HILL. And as you fight the battle for the industrial worker, you also are fighting the battle for a better standard of living and greater prosperity for the American farmer?

Mr. GREEN. Oh, yes; yes, indeed.

Senator HILL. And that would apply generally not only to the farmer but to all classes; is that not true?

Mr. GREEN. All classes of people, professional people, the small-business man, and others.

Senator HILL. Doctors, lawyers, preachers, dentists, white-collar workers even, will it not?

Mr. GREEN. White-collar workers, all classes.

Senator HILL. All classes, and no nation in the world's history ever carried the burdens that we carry today; is that not true?

Mr. GREEN. I think you are right on that. I share with you that opinion.

Senator HILL. And if we are going to carry these burdens, this heavy load of debt, all the burden of trying to keep our economy strong and healthy, to meet all these commitments that we have made to help peoples abroad, we have got to keep our production going all the while; is that not true?

Mr. GREEN. All the while. In order to do that very thing and reach that noble objective, we must be careful not to create class warfare.

Senator HILL. All right.

Mr. GREEN. Through the enactment of legislation such as this Taft-Hartley law.

Senator HILL. That is what I am getting to. That is exactly what I am getting to. What do you think will be the effect on this desired goal of production here in this country, of keeping our economy strong and healthy, if Congress fails to repeal this Taft-Hartley law?

Mr. GREEN. Well, I think that the public will ultimately pay because it will establish and maintain a feeling among the workers of this Nation that they are being class persecuted by the Congress of the United States.

That means that individual and collective productivity will drop. That will affect costs of production. You must satisfy the state of mind of the man who produces in the shop, in the mill, in the mine, in the factory, make him a willing and contented worker rather than a hating, resentful worker.

Senator HILL. And you feel that if this law——

Mr. GREEN. And that can be done if you will make it clear to him that he occupies the same economic, political level in America as all other classes of people, rich and poor.

Senator HILL. And that he has the same chance, the same doors open to him that are open to all the other people?

Mr. GREEN. That is right.

Senator HILL. And to any other class or any other group?

Mr. GREEN. Yes.

Senator HILL. Well, does he have that feeling now that this Taft-Hartley law is on the statute books?

Mr. GREEN. Oh, that feeling prevails very widely. You ought to hear the expression of individual workers, angry.

Senator HILL. When you say "that feeling," what do you mean by "that feeling"?

Mr. GREEN. A feeling of resentment against this Taft-Hartley law that has subjected them to this Government control and first of all has robbed them of what they regard as an essential part of their freedom, and you know if there is any one thing in America that people love it is freedom, and the enjoyment of freedom—freedom: freedom to bargain, freedom to sell what you have, freedom to negotiate for your services, skilled or unskilled, and when you say in a statute it is criminal to do that, he becomes angry.

Senator HILL. He resents it.

Mr. GREEN. Because he has been taught through half a century that “I have the right to sell my labor under the best terms possible around the conference table and in a way that will meet the satisfaction of my employer. If he is willing to sign it, why should he be denied the right to do it? He is the beneficiary of my work, and yet you say it is criminal if you do it, make a criminal of a worker if he exercises what he regards as his elemental freedom.”

Senator TAFT. This is all the closed shop, Mr. Green?

Mr. GREEN. Can you imagine the feeling that arises in the hearts of working men and women when they become conscious of that fact?

Now, that will grow and expand and it will be passed on to the children as they come up, here in free America this is what we have to contend with.

Senator HILL. That Government is denying them that inherent freedom?

Mr. GREEN. Freedom, yes. Pardon me, I was going to follow that up. Then, another thing, you have heard this law referred to as a slave-labor act, and of course we have been challenged to point out where there is slavery. Well, here is the basis for that.

When a man is compelled to work against his will, let it be a minute, an hour, a day, a week, or a year, he is a slave to that extent.

Now, when an injunction is issued and the worker must choose between going to jail if he violates the injunction or working against his will, for family reasons or other reasons he will probably go to work against his will.

Now, he is compelled to work—compulsion—forced to work because of a judicial decree and an order, and over his head is held a sentence if he doesn't do it. Now, he resents that because he thinks he is entitled to freedom in America the same as all other classes of people.

Senator HILL. Is not this true: He not only resents it deeply at the time, but he does not forget it very quickly, does he?

Mr. GREEN. Oh, he does not forget that, never.

Senator HILL. In other words, that one thing might affect that man's whole life.

Mr. GREEN. That is right.

Senator HILL. Might affect his attitude toward his job?

Mr. GREEN. Oh, yes.

Senator HILL. Toward his employer, might affect his productive capacity throughout his whole life, is not that true?

Mr. GREEN. Yes, his attitude toward society, to all he feels that the hands of them are all against him.

Senator HILL. Because when the Government acts, we naturally feel that is the people, all the other people; is not that true?

Mr. GREEN. The people are acting, yes. He feels the people are acting against him.

Senator HILL. The people are acting against him. So, if we are to have this production, if we are to keep our economy strong and

healthy, carry these burdens, meet these commitments, continue to grow greater and stronger all the time, then this act must be repealed?

Mr. GREEN. That is right; that is necessary.

Senator HILL. That is all, Mr. Chairman.

The CHAIRMAN. Senator Neely.

Senator NEELY. Mr. Green, you spoke of Judge Anderson's humanitarian action after you had described the distress of the starving miners in West Virginia.

Mr. GREEN. Yes.

Senator NEELY. You did not achieve similar success in Judge Dayton's court in West Virginia, did you?

Mr. GREEN. Oh, no.

Senator NEELY. By the way, were the United Mine Workers of America a part of the American Federation of Labor prior to 1914?

Mr. GREEN. Yes; yes, sir.

Senator NEELY. Did you know John P. White?

Mr. GREEN. I was secretary-treasurer to the United Mine Workers, and he was president.

Senator NEELY. Do you recall the case of the West Virginia-Pittsburgh Coal Co. against John P. White in Judge Dayton's court in the northern district of West Virginia?

Mr. GREEN. I certainly do recall that case.

Senator NEELY. Do you remember that he issued a sweeping injunction against the miners?

Mr. GREEN. Very sweeping.

Senator NEELY. Information concerning this case and much about tyrannical government by injunction is contained in the volume in my hand which is entitled, "Judge Alston G. Dayton, hearing before the Committee on the Judiciary, House of Representatives, Sixty-third Congress, third session and a special subcommittee thereof designated to investigate charges against Alston G. Dayton, July 1914."

Mr. GREEN. Yes.

Senator DONNELL. You say the Sixty-third Congress, Senator?

Senator NEELY. I beg your pardon. What is your question?

Senator DONNELL. The Sixty-third Congress, you say it was?

Senator NEELY. Yes, the Sixty-third Congress.

Judge Dayton, you will recall, enjoined the United Mine Workers from attempting to organize the miners of northern West Virginia.

Mr. GREEN. That is right, that was in northern West Virginia, in Fairmont, W. Va.

Senator NEELY. Do you recall that among other things the judge decided that the United Mine Workers and all other labor unions were unlawful combinations or conspiracies and that he would not permit them to exist in his district?

Mr. GREEN. I think I do. I was not clear as to whether that is included in a decision by Judge Dayton or that other notorious judge that used to be down around Wheeling there. I forget who it was. You remember him.

Senator NEELY. Yes; I think I know to whom you refer.

Did you know Van A. Bittner?

Mr. GREEN. Well, I know him now, yes.

Senator NEELY. You know that he was a member of the Mine Workers Union at the time the miners were part of the American Federation of Labor?

Mr. GREEN. That is right; that is right.

Senator NEELY. Do you recall that he was one of those whom Judge Dayton sentenced to jail for violating this injunction by trying to organize the miners?

Mr. GREEN. The miners of northern West Virginia, yes, sir.

Senator NEELY. Do you recall that the judge said to Mr. Bittner, the organizer, the following:

Here you—
meaning Mr. Bittner—

are wearing good clothes, eating good meals, eating off of the men who work in the mines. If I had John P. White before me I would give him a year in jail, too.

Mr. GREEN. Yes.

Senator NEELY. And do you recall also that that famous judge restrained the flint glassworkers, whose principal office was in Senator Taft's State?

Mr. GREEN. Around Toledo.

Senator NEELY. That is right, Toledo. He issued an injunction against the organizers for the flint glass industry and prohibited them from setting foot in the northern district of West Virginia.

Mr. GREEN. Yes.

Senator NEELY. West Virginia owns all of the Ohio River below the watermark on the Ohio side. Consequently an Ohio organizer for the Glass Workers Union could not even swim or bathe in the Ohio River without being in contempt of Judge Dayton's court.

Do you remember, Mr. Green, that in West Virginia your miners were prohibited, by injunction, from congregating more than three at a time on a public highway which their taxes had helped to build?

Mr. GREEN. Yes.

Senator NEELY. Did injunctions of that kind have anything to do with the generation of your hatred for what is called government by injunction?

Mr. GREEN. Very much.

Senator NEELY. Such as we again have in the Taft-Hartley law?

Mr. GREEN. I went through so much of that, Senator, I experienced it, I was the financial officer of the United Mine Workers, I paid the bills that were incurred, thousands of dollars in fighting these injunctions.

I paid for food and fed thousand of women and children thrown out of their homes because, as you know, Senator, in southern West Virginia the coal corporations would own all the land surrounding the mines and the houses there, and they had the company store, they had their homes, they collected the rent by deducting it from their earnings, they deducted their store bills from their earnings, and then when any trouble would occur, they would evict them from those homes.

Senator NEELY. Yes.

Mr. GREEN. And there was no place for them to live, no houses in that thinly populated section of West Virginia, and we would have to lease land and put tents on those lands, and there they would live and we would feed them there.

Now, this instance that I referred to Judge Anderson's court, was just one of many of that same kind that we had to deal with in West Virginia where the workers of the State were trying to organize but

the powerful corporations, owning and controlling them, kept them from organizing over a long period of time through the use of the injunction, largely as set forth by you, Senator.

Senator NEELY. Do you remember that your organizers were not even permitted to register in the hotels of some of the West Virginia cities—such as Fairmont?

Mr. GREEN. Fairmont, yes.

Senator NEELY. If all the Members of the Congress knew of the persecution suffered by union men during the early years of the present century under government by injunction, do you suppose that they would fail to repeal the Taft-Hartley Act?

Mr. GREEN. Well, Senator, it is our recollection of our tragic experience through which we passed prior to the passage of the Norris-LaGuardia Act, some of which you refer to now, that has developed within the hearts and minds of labor a feeling of resentment to the use of the injunction. Here we are after years of the Norris-LaGuardia Act going right back to that old thing, government by injunction.

Senator NEELY. And is this rebellious feeling on the part of labor against the Taft-Hartley law, to some extent, attributable to the fact that many men in your organization and in the CIO, in the railroad brotherhoods, and in the United Mine Workers of America remember their suffering under injunction proceedings?

Mr. GREEN. Oh, yes.

Senator NEELY. They had personal experience with the inhuman operation of injunctions in the days when labor was governed by them.

Mr. GREEN. That is it, so many of them remember.

Senator NEELY. That is all.

The CHAIRMAN. Senator Douglas.

Senator DOUGLAS. Mr. Green, I would appreciate it if you would look at section 9 (c) (1) (B), if you would, please.

Mr. GREEN. Of the Taft-Hartley law?

Senator DOUGLAS. The Taft-Hartley law, yes, sir; 9 (c) (1) (B), page 9.

Mr. GREEN. On page 9?

Senator DOUGLAS. Yes, sir. Now, that permits an employer to request that one or more individuals or organizations be recognized as the authorized collective bargaining agency.

Mr. TRIATCHER. You are talking about 9 (c)?

Senator DOUGLAS. 9 (c) (1) (B), yes. That is, the employer can petition the Board for an election alleging that there is an individual who claims to be the representative of the employees.

Mr. GREEN. Yes.

Senator DOUGLAS. So that if there were a strike and the union men were out and nonunionists had replaced them, the employer could say, "Well, a man has come to me and says that he represents the employees. I ask that the Board hold an election."

Mr. GREEN. Yes.

Senator DOUGLAS. And then will you look at 9 (c) (3) on page 10, toward the top of the page, beginning "No election shall be directed."

If the Board orders such an election, the strikers are not permitted to vote, and only the replacements or those to whom the union refers as strikebreakers will be permitted to vote.

Mr. GREEN. Yes.

Senator DOUGLAS. In such an election, would not almost inevitably the union lose, and would not either an independent union or no union at all win?

Mr. GREEN. There would be no chance for the union to win the strike in which it was engaged under those circumstances.

Senator DOUGLAS. And under those conditions, therefore, the employer can free himself from the union as a collective bargaining agency under the direct protection of the Taft-Hartley law?

Mr. GREEN. That is our interpretation of it, Senator.

Senator DONNELL. Senator, are you referring to the sentence which reads:

Employees on strike who are not entitled to reinstatement shall not be eligible to vote.

Senator DOUGLAS. Yes.

Senator DONNELL. Is that the particular sentence to which you refer, page 10?

Senator DOUGLAS. That is right.

Mr. GREEN. Under that arrangement the strikebreakers can petition for certification as the collective bargaining agent, and the Board holds the authority to grant the petition, and when the election is held, then if ordered by the Board, the strikers who, perhaps, were employed in that plant for 30 years cannot participate in the election. Only what we call strikebreakers who were brought in can pass on the election. It is reasonable to conclude how such an election would go.

Senator DOUGLAS. Now, if we were to move into a period of high unemployment—and of course we all hope that we will not do so, but if we would—do you think that these provisions give to employers great powers which they can use to eliminate unions from their plants?

Mr. GREEN. Yes; great powers, and it is a part of the general provisions of the act as we see it, a part of the design, having for its purpose the making of strong unions weak, weak unions weaker, and so on, and finally put them out.

Senator DOUGLAS. And once the election has been held, no further election can be held for a period of 12 months?

Mr. GREEN. Twelve months.

Senator DOUGLAS. And it is possible, is it not, that a continuation of that strike might itself be held to be illegal even though in its origin it was purely economic and originally legal?

Mr. GREEN. There is a great possibility that such a decision would be reached and then, furthermore, it is altogether likely that a number of the strikers would find jobs elsewhere so that when an election was held, even though they might, some of them, go back to the place to work, there would be very few of them there and it would cut no figure in another election.

Senator DOUGLAS. Now, might not an employer wait also until there was an ebb in union sentiment inside a plant and then, through an employee under his control, petition for a new election and catch the union therefore at those moments when it was weakest?

Mr. GREEN. Oh, yes.

Senator DOUGLAS. And this still further strengthens the power which employers have under the act to drive unions out of the plants?

Mr. GREEN. That is within the realm of possibility and that is another of our serious objections.

Senator DOUGLAS. And is it not also possible for an employer to request an election as frequently as once a year?

Mr. GREEN. Yes, a 12-month period; yes.

Senator DOUGLAS. So that might he not be able to wear down a union by a constant series of elections, so that they would not be able to get together on cooperative processes of collective bargaining, but would be constantly fighting for their lives?

Mr. GREEN. Wear them out.

Senator DOUGLAS. Now, may I ask you to look at section 8 (b) (1) on page 6 of the Taft-Hartley law?

Mr. GREEN. Before you depart from that other matter, there is another point in there that the employer can use effectively in wiping out the union, and that is the exercise of this free speech provision of this act, where he cannot only resort to threats and intimidation—

Senator DOUGLAS. 8 (c), the top of page 8?

Mr. GREEN. Yes. He can engage in free speech and go and tell them how bad the union was and it ought to be wiped out, and all that sort of thing. I wanted to refer to that before you left it.

Senator DOUGLAS. Now, may I ask you to turn to 8 (b) (1) on page 6?

It shall be an unfair labor practice for a labor organization or its agents to restrain or coerce employees in the exercise of their rights guaranteed in section 7.

Now, section 7, as I understand it, puts into a national statute more of what has been the common-law right of a workman to go back to work in the event of a strike. He has always had that right in common law.

This, however, now makes it a statute right, and section 8 (b) (1) now makes it an unfair labor practice for a labor organization or its agents "to restrain or coerce," if he does exercise this statutory right.

Mr. GREEN. Yes.

Senator DOUGLAS. Now, do you find in the act any definition of those words "restraint or coercion"?

Mr. GREEN. No; it is very difficult. It is so broad and comprehensive, Senator, that it is very difficult for you to submit a clear definition.

Senator DOUGLAS. Now, Mr. Green, we all know that from your long record in the labor movement you are opposed to the use of violence or threats of violence by unionists or their friends—

Mr. GREEN. Oh, yes.

Senator DOUGLAS. In the event of a labor dispute?

Mr. GREEN. That has no part in our philosophy or in our policy.

Senator DOUGLAS. And is it not true that acts of violence or threats of violence are already illegal under the common law, and under virtually all local municipal ordinances, and under many State statutes?

Mr. GREEN. Certainly.

Senator DOUGLAS. So if a unionist or a picket commits an act of violence against a man who is returning to work, or threatens to commit violence, he can already be punished by local authorities?

Mr. GREEN. Certainly, just the same as any individual who commits a crime, he is subject to prosecution for the commission of a crime. All we ask, all we have ever asked in that anyone charged with the commission of an offense or a crime shall be given a fair trial, that is all.

Senator DOUGLAS. But the definition of what constitutes an act of violence or threat of violence is a matter for local determination by local police officers and local courts who, presumably, know all the circumstances in the case.

Mr. GREEN. Certainly; certainly.

Senator DOUGLAS. But this act superimposes upon local responsibility a national prohibition, that is, it now becomes against the law of the Nation "to restrain or coerce" employees.

Mr. GREEN. Yes; that is it.

Senator DOUGLAS. And national definitions can be imposed which will apply to the country as a whole and which will supersede local police regulations?

Mr. GREEN. Yes; it supersedes that.

Senator DOUGLAS. So that, in a sense, what has happened has been that the local rights of determination have been superseded by national law and national administrative law?

Mr. GREEN. Yes.

Senator DOUGLAS. Now, while you are opposed—and I think, of course, properly so—to violence or threats of violence—and I want to say that I am also opposed to mass picketing, for example, I want to make that clear—you believe very strongly, do you not, in the right of peaceful picketing?

Mr. GREEN. Oh, yes; peaceful picketing.

Senator DOUGLAS. The right of union members or sympathizers to try peacefully to dissuade people from coming back to work?

Mr. GREEN. That is right; that is right.

Senator DOUGLAS. Now the line between peaceful picketing on the one hand, and threats of violence on the other, is a somewhat difficult one to pick out.

Mr. GREEN. Sometimes it is that we face that experience, but we rely upon, shall I say, the local authorities to determine that question because they are on the ground.

Senator DOUGLAS. Exactly so.

Mr. GREEN. They are in possession of the facts.

Senator DOUGLAS. Exactly so.

Mr. GREEN. They see the picture close up, whereas we, removed from it, of course cannot.

Senator DOUGLAS. But this act creates a national determination of the facts and national punishment if found guilty.

Mr. GREEN. Yes.

Senator DOUGLAS. Now do you see any possible danger that the general counsel in the first instance and the Board later might give such a broad definition to the terms "restraint or coercion" as virtually to prohibit effective peaceful picketing?

Mr. GREEN. That is within the realm of possibility because he is a dictator, almost. He is clothed with absolute authority to make his rulings and his decisions.

Senator DOUGLAS. Are you acquainted—and I presume you are—with the decision of the United States Supreme Court in the Ameri-

can Steel Foundries case, which arose out in the tricities of Rock Island, Moline, and Davenport, Iowa.

Mr. GREEN. Yes; to some extent, although at the moment I do not remember all of it.

Senator DOUGLAS. Was it not in that case that the standard was laid down that two pickets to a gate was an adequate number, and if you had more than two pickets to a gate, that it constituted tacit coercion?

Mr. GREEN. Yes.

Senator DOUGLAS. Well, now, in modern industry, if such a ruling were made universal, would the imposition of the standard of two pickets to a gate bar effective peaceful picketing?

Mr. GREEN. I am of the opinion two pickets at a gate, that would be surely peaceful picketing. I do not think you could classify that as violence.

Senator DOUGLAS. Might you not have more than two pickets to a gate and still have peaceful picketing?

Mr. GREEN. Yes; you could have more than that and still have peaceful picketing.

Senator DOUGLAS. And yet you might have such a strict definition of peaceful picketing that in effect the unions would be prohibited from any effective picketing?

Mr. GREEN. Yes.

Senator DOUGLAS. Through the gate of a modern huge corporation there will normally pass thousands of people going in and going out; is not that true, and that if the Steel Foundries case rule were to be applied—and I am not aware that it has been reversed—would not the Labor Relations Board have the power virtually to prevent peaceful picketing under this act?

Mr. GREEN. I think so; yes.

Senator TAFT. Senator, may I ask what that case was?

Senator DOUGLAS. The American Steel Foundries case, involving the machinists union, I believe, in the so-called Tri-Cities, two of them on the Illinois side of the Mississippi—

Senator TAFT. But not under the Taft-Hartley Act.

Senator DOUGLAS. Oh, no, no, no; but what I am saying is, could not the Labor Relations Board revive the decisions of the court, which says that more than two pickets to a gate constituted restraint or coercion and in effect, therefore, make picketing ineffective?

Mr. GREEN. Well, you see, Senator, that ruling would apply in a very rigid way, and it does not take into account that perhaps here is a plant with 50 or 100 people employed where 2 pickets would probably be effective while here is a plant, like United States Steel Corp. or something like that, where thousands and thousands are employed. They could have more than two pickets in a place like that and do it peacefully.

Senator DOUGLAS. That is right. Well, as a matter of fact, I stood at a gate in Rock Island last summer in the same city to which this ruling was applied, and saw, in the space of something like half an hour what I would judge to be 5,000 people go through that gate.

Mr. GREEN. Yes.

Senator DOUGLAS. And going quite fast.

Mr. GREEN. Yes.

Senator DOUGLAS. Do you think that the union would be able to demonstrate its moral case with two men standing at that gate?

Mr. GREEN. It would be very difficult in a large plant. They would be lost sight of.

Senator DOUGLAS. So that, do you not think that these terms "restraint or coercion"—perhaps this is a leading question; I should alter it—do you think that the terms "restraint or coercion" could be used by an unfriendly general counsel and an unfriendly Board to break a strike?

Mr. GREEN. Yes; and I rather think that the general counsel now in charge is of such a type as to be able to do that very thing, and there is danger that he might do it.

Senator DOUGLAS. Well, I made no comment on that.

Mr. GREEN. It confers broad powers and authority.

Senator DOUGLAS. Now, there is one final question I would like to ask, and that is directed to section 301, the suability of unions.

Mr. GREEN. Section 301?

Senator DOUGLAS. Yes; on pages 23 and 24. By this section, unions are made suable for the acts of their agents.

Mr. GREEN. Yes.

Senator DOUGLAS. And in subsection (e) on page 24 it is said in defining an agent that the question as to whether at the time specific acts performed by the person in question which were authorized prior to their performance or ratified after their performance shall actually not be controlling.

Now, would it not be possible under this act for unions to be sued for words uttered or deeds committed by pickets who are not officials of the union but who were trying to help the union on the picket line?

Mr. GREEN. That is within the realm of possibility, too, because there is a very serious implication in that. An enemy of the union could work himself into a responsible position with the union and get on the picket line through his willingness to serve, and so forth, determined to do the very thing that is going to bring about a suit against the union.

Senator DOUGLAS. The union cannot control the acts of its members.

Mr. GREEN. The union, of course, cannot control him, because the union is not out marching beside him. He can be moved by emotion, he can be moved by anger, or he can be moved by a traitorous feeling, a feeling of hatred toward the union, to help weaken and destroy the union. He is a traitor to the union, and he can manipulate and do the very thing that will make the union suable.

Senator DOUGLAS. A union is not a military organization with powers of life and death over its members.

Mr. GREEN. Yes.

Senator DOUGLAS. And therefore any control which it has over its members must of necessity be somewhat weak; is not that true?

Any control which the union has and any such control as it has exercised in the past has been still further weakened by the Taft-Hartley law, as you pointed out, which provided that expulsion from union membership does not mean loss of a job provided the employer wishes to retain him.

Mr. GREEN. That is right. Just as I said about the Communist, if you put him out of the union even in a closed shop, where the closed-shop agreement is in effect, the employer is not under obliga-

tion to put him out, and they have got to work with him just the same as they did before in this set-up.

Senator DOUGLAS. Is it not quite possible that the drafters of this act, innocently enough but mistakenly, confused the powers which a union has over its members with the powers which a corporation has over its officials?

Mr. GREEN. I think so. I think they were moved by that consideration, and that is what I referred to, the academic study of it all, purely academic.

Senator DOUGLAS. Where, as a matter of fact the corporation is more of a military organization than the union, and if an official of a corporation commits an act which the board of directors or the president of the corporation regards as hostile to their interests, he can be disavowed as an agent very quickly, whereas a union member cannot be so disciplined; is not that true?

Mr. GREEN. That is right.

Senator DOUGLAS. Do you foresee possible great dangers in this suability provisions combined with the other features of the Taft-Hartley law?

Mr. GREEN. Oh, yes.

Senator DOUGLAS. Is it not a fact that the National Association of Manufacturers for over 40 years has been trying to establish by statute law the suability of unions?

Mr. GREEN. Oh, they have been trying to do that for the purpose of breaking up and destroying the unions.

Senator DOUGLAS. But it was not until the Taft-Hartley law was passed that they were able to realize the goal upon which they started, as I remember, sometime around 1907 or 1908?

Mr. GREEN. You see, Senator, there is a difference between the local union or the national union and a corporation. A corporation exercises absolute control, and they limit probably the members of the corporation. They can do it under their arrangement, but a local union is engaged in organizing human beings into unions where they can unite their influence and their power, whatever it may be, and their economic strength.

Well, they have no choice over that membership. The employer employs the worker, and in organizing the worker they take into their union the worker. Now, there are good and bad, as you know, poorly informed and well informed, educated and uneducated, perhaps Communists and non-Communists, all classes of people.

Well, the union has to take them in, take the members in. They cannot say, "John Jones, you cannot come in; Bill Smith, you cannot come in." We take them all into our union. Now, they have to deal with that complex situation with men untrained, men lacking in understanding of trade-union philosophy, and their energies must be directed toward the education of these people who come in in our trade-union philosophy in management-labor relations, in collective bargaining, in all of this.

We have good and bad come. While the union is doing that, why should it be responsible for the act of some individual that it had to take in, not by choice, but simply because of the fact that the individual was employed at the plant where the organization was established?

I should like to have that point——

Senator TAFT. In what way are they responsible for that man under the Taft-Hartley law?

Senator DOUGLAS. Are you taking the Republicans' time, Senator Taft, or the Democrats' time?

Mr. GREEN. In suing the union because of the act of an individual——

The CHAIRMAN. I will have to ask that the Senators address the Senator who has the floor.

Senator DOUGLAS. I would be perfectly glad to yield to Senator Taft.

Senator TAFT. That is all right.

Senator DOUGLAS. I did not want to have the Democrats charged with the time of Republican questioning.

Senator MORSE. Will the Senator from Illinois yield for a procedural matter, for a second?

I wish to address an inquiry to the Chair.

Mr. Chairman, I have taken up with the subcommittee two items, one in regard to the continued testimony of this witness this afternoon, if it meets with the convenience of Mr. Green. It is obvious that we will not finish the examination of Mr. Green this morning.

It is the position of this side of the committee that if it is convenient for Mr. Green, we would like to have him return this afternoon so that this side of the committee can finish its examination of him today so he will not have to be brought back at a later time.

Mr. GREEN. I will be glad to accommodate you. I will help you, if I can, by coming back this afternoon.

Senator MORSE. We think perhaps we can complete it today. Second, if it is satisfactory to the subcommittee or satisfactory to the Democratic colleagues, it would be an exceptional personal courtesy to me today, because I have to catch an afternoon plane for a speech commitment in Lexington, Ky., that I undertook some months ago and must deliver, and when the Senator from Illinois finishes, as I have only a few questions to ask Mr. Green, I would like the courtesy to complete my examination this morning.

Senator DOUGLAS. I shall try not to take too long.

Senator HUMPHREY. When are you going to catch that plane? I have a whole series of questions.

Senator MORSE. You may proceed this afternoon. I am sure it will not take me, Senator Humphrey, more than 20 minutes at the most.

The CHAIRMAN. If the Chair may break into this so that we may get this order straight, we will then put it to the committee and have it decided.

The first request is that this afternoon's witnesses be laid aside for the time being and that President Green be called back again.

May I ask if that is the request of the subcommittee?

Senator MORSE. Yes; the subcommittee approves of that.

The CHAIRMAN. Does the committee approve of that change?

Senator HUMPHREY. What is that, Mr. Chairman?

The CHAIRMAN. That Mr. Green be called back this afternoon in place of the witnesses who were scheduled.

Senator HUMPHREY. I am surely desirous of that, because I want to keep the continuity of this testimony.

The CHAIRMAN. If there is no objection, then, we will ask President Green to come back at 2:30 this afternoon, when we take up this after-

noon's proceedings, and we will lay aside the calling of the witnesses who are scheduled for this afternoon at 2:30.

Now the next request is that Senator Morse be allowed to proceed after the Senator from Illinois, Senator Douglas, finishes, that he be allowed to proceed during this morning's session.

That means Senator Humphrey and Senator Withers will be put off until this afternoon. Is there objection?

If there is no objection, we will follow that rule. It is now 11:30 and I suggest the Senators govern themselves accordingly.

Senator DOUGLAS. In other words, while the unions were ostensibly only made responsible for the acts of their agents under the Taft-Hartley law, the term "agent" has been so broadly defined, the leading case being the Sunset Line and Twine case, that it practically can be held responsible for the acts of members under many circumstances; isn't that true?

Mr. GREEN. Yes; that is true.

Senator DOUGLAS. I would like to touch on the question of wildcat strikes. It has been the policy of your organization and affiliated organizations, as I understand it, to provide for continuity of production during the life of the contract and to discourage wildcat strikes by groups of workers concerning the interpretation of contracts or concerning individual grievances.

Mr. GREEN. That is part of the fixed and definite policy of our organization.

Senator DOUGLAS. Now a good many of your unions have, therefore, incorporated into their collective agreements with employers so-called no-strike provisions under which they guarantee that during the life of the contract there will be no strikes and that if individuals do so strike, that they will discipline those men; is that right?

Mr. GREEN. That is incorporated into a number of agreements.

Senator DOUGLAS. As I roughly remember the figures given out by the Bureau of Labor Statistics, I believe somewhat over a year ago about a third of the contracts had those provisions.

Mr. GREEN. Senator, I will supplement that by saying we have in our affiliation a large number of national unions who have been functioning for over a half century, some of them longer, made up of highly important and in many instances highly skilled workers, that have never had a strike or a single stoppage of work during a half century. They have always arrived at agreements through collective bargaining and have kept the industry in steady operation.

Senator DOUGLAS. Now, under the Taft-Hartley law, with the possibility that acts of members may be treated as the acts of agents of the union, is not the danger created that an unauthorized wildcat strike, not initiated by the union, and actually discouraged by the union, might nevertheless be treated as an act of union agents and hence might this not make the union suable under the Taft-Hartley law?

Mr. GREEN. I think it would be under the Taft-Hartley law.

Senator DOUGLAS. As a matter of fact, did not the general counsel of your federation issue a bulletin in which is said:

For the reason that the ability of unions to police their agreements by disciplining employees engaging in wildcat strikes has been virtually destroyed under the new law, it is suggested that unions hereafter refrain from agreeing to no-strike clauses in collective-bargaining agreements. We give this advice reluctantly, but the restrictions placed upon labor organizations under the new law leave us no alternative.

So you felt that the Taft-Hartley law put you in such grave jeopardy for acts of members over whom you had no control that you felt compelled to abandon the policy toward which you had been striving, namely, to guarantee employers against interruptions of production?

Mr. GREEN. Yes.

Senator DOUGLAS. And the peaceful and harmonious labor relations during the life of a contract were therefore gravely injured by what you believe to be the nature of the Taft-Hartley law?

Mr. GREEN. Yes; you have brought out and emphasized in a very wonderful way, Senator, one of the chief objections we have to the Taft-Hartley law.

Senator DOUGLAS. Namely, that it makes it almost impossible now for a union to put in a no-strike provision because if you do put in the no-strike provision and then if hot-headed or evil-minded workers succeed in a section in stirring up public sentiment or in the adjustment of grievances by the employer, if it has been slow, you can have a strike or a walk-out take place in that section, or a collective slowdown, and the penalties will not lie against the individual workmen who commit those acts, but will lie against the organization.

Mr. GREEN. Against the union itself.

Senator DOUGLAS. So that this clause could be used by employers willing to do so to financially break almost any union in the land.

Mr. GREEN. It could be used to damage, break, and destroy our unions.

Senator DOUGLAS. Thank you very much.

The CHAIRMAN. Senator MORSE.

Senator MORSE. Mr. Green, I want to refer first to the section of the Thomas bill which deals with the Conciliation and Mediation Service.

In your prepared statement this morning you emphasize the point that it was the position of the A. F. of L. that it should be returned to the Department of Labor.

Could you tell the committee what was the position of the A. F. of L. at the time of the Labor-Management Conference in 1945 in regard to the Conciliation Service and its location?

Mr. GREEN. No; I couldn't at the moment because I don't have it before me and I don't recall.

Senator MORSE. You don't recall whether or not, although the A. F. of L. members of the Labor-Management Conference in 1945 voted to have it remain in the Department of Labor, that at the conference they did not press the issue but rather the issue was pressed by the CIO and the A. F. of L. went along?

Mr. GREEN. I don't recall that. When I refer to the position of the American Federation of Labor, I refer to action taken by conventions of the American Federation of Labor, by the executive council, responsible bodies authorized to speak for the Federation of Labor.

Now what was said at the Labor-Management Conference I can't recall at the moment, Senator, what the discussion was, but as in all democratic organizations, there may be some differences of opinion, of course, but I am speaking about the crystallized, expressed opinion of the representatives of the membership of the American Federation of Labor.

Senator MORSE. I understand, Mr. Green, that it is the official position of the A. F. of L. that it be returned to the Department of Labor.

I am aware of that and I am not seeking to get an admission against interest, either, by this question.

Mr. GREEN. You mean the Labor-Management conference called by President Truman a year or 2 years ago?

Senator MORSE. 1945.

Mr. GREEN. I remember that.

Senator MORSE. I am not seeking to get an admission against interest. I am seeking, however, by the question I now put to you, to call your attention to a very practical problem that always confronts legislators in passing legislation, namely, agreeing to acceptable compromises that make it possible to pass legislation.

So I ask this question: Do you consider the Conciliation and Mediation issue in connection with the Thomas bill to be one of the more important matters in the bill, or of secondary importance compared with such matters as injunctions, the power of the general counsel, the closed-shop issue, and issues of that type?

Mr. GREEN. Well, Senator, I will frankly state that we consider, of course, the functioning of the Mediation and Conciliation Service as very important. It is inconceivable that we could think of being without a well-functioning Conciliation and Mediation Service during these trying days through which we pass and through which we will pass in the future.

But if you would ask me to classify question by question in this Taft-Hartley law, I would say that the closed-shop provision, the injunction provision, the suability of unions for damages, et cetera, are of transcendent importance, and I would consider of more importance than the Conciliation and Mediation Service. So I make that frank answer to your question.

Senator MORSE. I knew you would be perfectly frank and honest about it, and that is why I put it because I think you are well aware of the fact that at least some of us on this committee feel that the job which confronts us is the job of working out the best piece of compromise legislation that can be worked out and at the same time have that legislation in form that will not damage the legitimate rights of either labor or management or the public.

I suppose you would add, would you not, to your list of important issues just enumerated, the importance of checking the now existing broad powers of the general counsel's office?

Mr. GREEN. Oh, that; yes. That is of outstanding importance. That has caused immeasurable resentment among our working people.

Senator MORSE. That is the next subject I wanted to examine you on very briefly. Has it been your experience, Mr. Green, under the operation of the Taft-Hartley law, that the power vested by that law in the general counsel has led to a great deal of litigation and has placed you in position of defense many times because of the exercise of his unreviewable legal powers?

Mr. GREEN. I would say "Yes" to that. It has cost us money, cost us worry, created feelings of apprehension in us, speculation, wondering what is this and what is that, and so on. We have felt that the whole thing is wrong, having the Board so created with such vast powers conferred upon an individual as is conferred upon the general counsel.

But, added to that, is this unfortunate aspect, that the general counsel now functioning is regarded by labor as biased and unfriendly

to labor, and that has been reflected, we think, in his attitude in a number of cases. We feel that is a matter of tremendous importance and I am glad to make that answer to your question.

Senator MORSE. But your basic objection is not the question as to whether or not this particular general counsel is biased, but because of the power vested in his office?

Mr. GREEN. That is the basic question. The individual happens to be what we think as a biased man, but they might get another one just the same. What we feel is that the vast powers reposed in him by this act is a thing which is indefensible.

Senator MORSE. The point I am making is that your real objection is that the A. F. of L. believes that no man handling labor relations should be given the power to exercise the arbitrary discretion, unreviewable, which the law gives to the general counsel; is that your basic position?

Mr. GREEN. That is right.

Senator MORSE. And you would be just as much opposed to the exercise of that power, to assume a hypothetical, if the general counsel in your view was biased in favor of labor and against industry?

Mr. GREEN. It would be the same thing. The power is too vast.

Senator MORSE. The exercise of the power would involve you in just about as much litigation whether he was biased one way or the other?

Mr. GREEN. That is right.

Senator MORSE. Now I turn to the question of the injunction in emergency disputes, Mr. Green.

Am I correct in my understanding that it is the position of the A. F. of L. that whatever machinery is written into the statute for the handling of emergency disputes, the A. F. of L. is opposed to the exercise of the injunction in emergency disputes?

Mr. GREEN. That is right. For reasons herein stated, our experience with injunctions, and so forth—

Senator MORSE. I think you made perfectly clear that you are opposed to the injunction.

Mr. GREEN. We are opposed to the resort to the use of the injunction in labor disputes as provided for in the Taft-Hartley law.

Senator MORSE. I only asked for a reiteration of your position as a foundation to the question I now ask. Have your lawyers advised you as to whether or not in their opinion the President possesses any inherent power under the Constitution to seek an injunction in an emergency dispute?

Mr. GREEN. No; I haven't gone into that with our legal department.

Senator MORSE. Do you have a laymen's view of the subject, Mr. Green? What do you as a layman think? Do you think as a layman that the President has such power?

Mr. GREEN. I am not certain, but I can't help but believe that if a situation that I don't anticipate would ever occur in labor-management relations would face the Nation, that the President couldn't sit still. In my judgment he possesses a vast inherent power and I think that power inherent within him as the Chief Executive of the Nation would permit him even to seize properties and operate them in order to serve the public interest. Now that is my own layman's opinion.

Senator MORSE. But it is not based upon advice of counsel?

Mr. GREEN. No; I haven't got that on advice of counsel. I haven't discussed it with them.

Senator MORSE. I think you know that, very limited as my legal abilities are, I greatly disagree with the point of view you have expressed. I shall be very fearful if the day ever comes in America when any President of the United States thinks he can read into the Constitution of the United States the inherent power either to seize property or attempt to force men to work against their will, as you put it here this morning, by going to court and seeking an injunction.

I think that is a good way to lose those very democratic rights you so eloquently defended earlier in your testimony.

Mr. GREEN. I am afraid of it and apprehensive over it because personally I don't want that power conferred on any person in America or any agency of America.

Senator MORSE. I completely agree and if I should be completely wrong in my interpretation of the law—and all lawyers are frequently wrong as to their interpretation of the law, as I have been in the past and expect to be again in the future—but if the future should prove that I am mistaken on this very important point of constitutional law, you will find me if the Supreme Court ever rules that this power exists, barnstorming this country for a constitutional amendment taking it away. Just as I don't like to give the general counsel of the National Labor Relations Board the power you and I are objecting to, neither do I want to give to the President the power to exercise what might be caprice in time of great national stress by seizing the property of this country and moving the Army in, for example, to support him in such a seizure.

Mr. GREEN. I think we join with you in that, Senator.

Senator TAFT. Mr. Green and I perhaps will join you in that barnstorming tour. I look forward to it with a good deal of pleasure.

Senator MORSE. You spoke this morning in your testimony with regard to the limitations of the Taft-Hartley law on the political activities of unions. I make this statement as a foundation for the question I want to ask. I completely agree with you and have said many times that I think the political activity section of the Taft-Hartley law should be removed, and I hope it will be. However, yesterday on the floor of the Senate there was a discussion by the Senator from Missouri and myself in regard to an Associated Press dispatch concerning a purported resolution that the A. F. of L. had passed to the effect that the A. F. of L. proposed to participate in political activity to the extent of running men for State legislatures and putting them on the A. F. of L. pay roll because they couldn't serve in the legislature and meet the financial expenditures of serving.

The Senator from Missouri and I expressed our complete disapproval of the basic principle of any such resolution. The distinguished Senator from North Dakota, Mr. Langer, raised the question as to whether or not we weren't commenting on something without having the official statement. We said that was, of course, true, but it was in the press, it seemed to be a reliable report, and if it wasn't a reliable report, the A. F. of L. most certainly should make its position clear.

I now ask you, Mr. Green, if you can advise this committee, because I think it has a direct bearing upon this political-activity section of the Taft-Hartley law, whether it is the position of the A. F. of L. that through its political activities it proposes to run men for the

State legislatures and then put them on the A. F. of L. pay roll while they are serving?

Senator DONNELL. Might I interject just a moment for the purpose of absolute accuracy of the record?

Senator MORSE. I want it accurate.

Senator DONNELL. In the discussion on the floor of the Senate yesterday it was not stated that a resolution had been adopted by the A. F. of L. The press dispatch to which the Senator from Oregon refers was one issued by the Associated Press under date of February 12 in which it was stated that this proposal to which he refers was made by a high-ranking A. F. of L. official in a written statement presented to the Labor League Administrative Council. By the "labor league" is meant Labor's League for Political Education, which is described in the article as the American Federation of Labor's political arm.

The article in the Kansas City Times in which this dispatch appeared also stated:

Thus it was proposed and virtually decided that the league will help elect and thereafter augment the salaries of legislators endorsed by labor where they have insufficient funds of their own to get by.

Senator MORSE. I accept that. My question, Mr. Green, is: Has the A. F. of L. adopted a policy of supporting candidates for the State legislature in the future with the contemplation of putting the successful candidates on the A. F. of L. pay roll while they serve in the legislature?

Mr. GREEN. I am very glad to answer your question and do so in a very frank way. The American Federation of Labor never took such action. The executive council which met at Miami beginning January 31 and was in session for about 10 days never considered or acted upon any such proposal, and between conventions there is no agency clothed with authority to act upon such a question except the executive council of the American Federation of Labor.

It is clothed with authority to deal with questions of that kind between conventions and only between conventions. No other agency, no other authority, not even the executive officers of the Federation of Labor, is clothed with authority to take action on a question of that kind.

So I can say to you truthfully, and the records of the meeting will show, that no consideration was given to this question, and no action was taken at any sessions of the executive council's meeting upon it.

Now I will tell you where I think the story originated. Shall I tell you?

Senator MORSE. Yes. I want to say I am very glad you are making this statement; I think it was very desirable. The Senator from Missouri and the Senator from Oregon raised it yesterday, and I can tell you from the reports I have already received that great injury has been done your organization by the story. I think widespread public disapproval would flow from the adoption of any such policy, and rightly so.

Mr. GREEN. Now, I think I am right on this, that the story grew out of a statement prepared by the representatives of Labor's League for Political Education. That League is functioning for educational purposes to acquaint our membership with developments in Congress and

in State legislatures and with what is being considered and what is being acted upon, and so on.

Now the question came up as to what we could do or what we might be able to do in bringing about a repeal of these antilabor laws in about 12 or 13 States which were passed by State legislatures. In Maine we repealed one by a referendum vote. In Massachusetts we repealed one by a referendum vote at the last election. In New Mexico, I think it was, we repealed one at the last election.

The Supreme Court in its decision, made recently, upholding the constitutionality of these laws, made it clear that the only way the workers in these different States could bring about a repeal of these acts was by calling upon the legislature and having enough in the legislature who are members of the legislature, State legislature, to vote to repeal them.

Senator DONNELL. May I ask Mr. Green whether he is referring to the recent decision in the case of *Lincoln Federal Labor Union, A. F. of L., et al. v. Northwestern Iron & Metal Company, et al.*, and *George Whitaker v. the State of North Carolina*?

Mr. GREEN. Yes; that is right. Many of these States in the different laws make the closed-shop contracts illegal and prevent the workers, just like the Taft-Hartley law, from entering into closed-shop agreements. In the discussion that was brought up about it, it was pointed out that there were many workingmen in these different States who could be elected to the State legislatures, but the trouble was that for economic reasons they were prevented from doing so because of the small amount of pay that was paid to the State legislator, which was too small for him to accept and care for his family.

Senator DONNELL. Where did this discussion come up?

Mr. GREEN. I understand, it was reported to me that it came up in the discussion of, shall I say, publicity representatives of Labor's League for Political Education.

Senator DONNELL. What is that organization as referred to the A. F. of L.?

Mr. GREEN. That is an organization formed by the American Federation of Labor for educational and political purposes.

Senator DONNELL. Is it correct to call it, as the Associated Press dispatch does, the American Federation of Labor's political arm?

Mr. GREEN. They designate it that. I have never designated it as our political arm. It is labor's league for political and educational purposes. Someone of the representatives there referred to that in a publicity statement only, and no action was taken on it so far as I understand, even by the executive authority of Labor's League for Political Education. I know no action was taken on it by our executive council because it was never brought to the attention of the council, and as a result of it, it was given a wide press play with statements that we were going to do that, and so on.

I can tell you truthfully there is no thought of the American Federation of Labor engaging in any such actions or such a policy. Now there is the story as best I can tell you.

Senator MORSE. I think it is a very important story, and I think it is very appropriate that that story go out to the American people today.

Mr. GREEN. Yes.

Senator DONNELL. May I say to the Senator from Oregon that I think it is likewise important, but I should like in due time to examine Mr. Green further with reference to the matter. I don't want to infringe on the Senator's time.

Mr. GREEN. That will be very satisfactory.

Senator MORSE. I wanted to make clear your position because, as I said on the floor of the Senate yesterday, any such reported action by any labor organization in this country in my opinion would be a blow at sound representative government.

Now with that out of the way, I come back to this political restriction section of the Taft-Hartley law. Have you found that the Taft-Hartley law, Mr. Green, because of its terminology, has interfered with political activities on the part of A. F. of L. unions?

Mr. GREEN. Oh, yes. It has prevented the A. F. of L. unions from using funds—that is, the local organizations—for political purposes.

Senator MORSE. Do you believe that a voluntary organization of workers, namely, a trade-union, should have the right in this country if they wish to exercise it through democratic action within their union to engage in political activity if they so desire?

Mr. GREEN. I do. I believe they should because we always have ever since the organization of the American Federation of Labor, ever since it was formed. No one ever challenged that right heretofore.

Senator MORSE. Has it been the experience of labor, both on a State legislature level and on the Federal congressional level, that the attitudes of men elected to legislative bodies, their attitudes on labor, have a direct bearing upon the strength of organized labor in this country?

Mr. GREEN. Certainly. They possess the power, they are clothed with the power and authority to take action which affects very seriously the life of the trade-unions, their very existence. We have found through experience as our organizations grow and expand numerically and otherwise, that we are in a far better position to deal on a more equitable basis with powerful corporations than when we are weakened or controlled by Government intervention and Government administration.

That point makes it clear that we are tremendously interested in the action of Congress and of State legislatures because they can take action that will limit, hinder, and weaken the activities of our trade-union movement.

Senator MORSE. In your opinion has labor come to learn from experience that if it wants to protect its legitimate rights from being damaged by the passage of unwise legislation, it must keep itself in a position where it can support its friends and oppose its enemies in political campaigns?

Mr. GREEN. Yes, sir.

Senator MORSE. And in your opinion the operation of the Taft-Hartley law has greatly restricted labor's exercise of what it considers to be its democratic right as an organization to support its friends and oppose its enemies in political campaigns?

Mr. GREEN. Absolutely; yes, sir.

Senator MORSE. Now I turn, Mr. Green, to the question of the closed shop. Prior to the passage of the Taft-Hartley law the various labor organizations federated with the American Federation of Labor had

entered into a great many closed-shop collective-bargaining agreements with American employers; is that not true?

Mr. GREEN. That is right; oh, yes, a large number.

Senator MORSE. And the A. F. of L. has enjoyed the experience over a great many years of relations with employers who prefer, particularly in some industries, to contract with the union to relieve the employer of the problems of employing his workers by having the union supply the workers to him through what is called a closed-shop agreement?

Mr. GREEN. Yes. He has found that that has been of great service economically and otherwise to him. He has been the beneficiary of it.

For instance, among the seamen, employing men through the hiring hall, a custom that has grown up out of experience over a long period of time, neither the employer nor the employee wants to give that up. They want to maintain it because they have found it was advantageous to them. And yet under the Taft-Hartley law it would be illegal to maintain what they call the hiring hall.

Senator MORSE. The employer preference for this type of hiring has prevailed also in such industries as garments and glass and in the newspaper unions?

Mr. GREEN. Yes, and building trades and in the newspapers that has been the rule. Also pottery workers and many of the metal-trades organizations. They have established a very friendly and warm relationship between management and labor through the establishment of that relationship.

The union that the employer makes a contract with is responsible because the employees of the plant are members of that union.

Senator MORSE. After the Taft-Hartley law was passed with its closed-shop restrictive clauses in it, did you, as president of the American Federation of Labor, find that there were a great many employers that expressed to you personally or to other A. F. of L. officials, national or local, their disappointment that the closed-shop restrictive clauses were in the Taft-Hartley law?

Mr. GREEN. Very few. I don't recall scarcely any employers ever expressing any such view to me, and the workers and all their friends, who were the beneficiaries of it, and it worked satisfactorily.

Senator MORSE. Will the reporter please read to Mr. Green my question and Mr. Green's reply in order to make certain he considers the reply responsive to the question?

(The question referred to was read by the reporter.)

Mr. GREEN. Oh, yes; the employers expressed that opinion to me in personal conversations I had with them, both individually and collectively.

Senator MORSE. In effect did they say to you, many of them, that they would like to continue with their closed-shop hiring practices?

Mr. GREEN. Absolutely. They wished to continue the free collective-bargaining process that they had worked under for all their life.

Senator MORSE. Since the passage of the Taft-Hartley law a good many of your closed-shop agreements have expired, have they not?

Mr. GREEN. Yes.

Senator MORSE. In negotiating new contracts it has been necessary for you to word those contracts in accordance with the provisions of the Taft-Hartley law, has it not?

Mr. GREEN. That is right, and it has caused trouble, lots of it.

SENATOR MORSE. Have there been instances in which although the new contract followed the union-shop wording of the Taft-Hartley law, the actual hiring practices as they existed prior to the Taft-Hartley law nevertheless have been continued in fact?

MR. GREEN. There are some instances of that kind, and that demonstrates the unworkability and impracticability of the plan in the Taft-Hartley law.

SENATOR MORSE. Would you say that in this period of full employment, which is another way of saying scarcity of manpower to meet the job demands, that the continuation of the actual hiring practices in many instances as they existed prior to the Taft-Hartley law has amounted in effect to a way of circumventing the closed-shop provisions of the Taft-Hartley law?

MR. GREEN. Well, I will say this in answer to that inquiry: Take in the hiring-hall plan to which I referred. That plan is made illegal under the Taft-Hartley law. Yet it is in operation in some form.

SENATOR MORSE. Mr. Roth of the San Francisco Employers Council was a witness, and what he said will speak for itself, but I will give you my interpretation of what he said, which is that in the San Francisco Bay area, which is one of the great closed-shop areas of the country, by and large, the hiring practices have continued as they existed prior to the passage of the Taft-Hartley law because of the fact that there is this scarcity of manpower.

MR. GREEN. That is my understanding; yes.

SENATOR MORSE. Are you fearful that in times of unemployment the closed-shop restrictive clauses of the Taft-Hartley law, however, may create difficulty for you in that at that time many of the employers who have been continuing the old hiring practices might then be in a position or would be in a position to refuse to carry on those practices and, therefore, not give you the actual benefit of the closed-shop relationship with them?

MR. GREEN. Well, Senator, yes, for two reasons: One, which you have just emphasized, is that there may be a recession and as a result of it much unemployment. Knowing employers generally as I do, they will take advantage of the unemployment situation.

Secondly, there is a threat hanging over them constantly that they are subject to prosecution under the Taft-Hartley law for engaging in the practice that now prevails in the area where the hiring halls are established.

SENATOR MORSE. Now, Mr. Green, turning to another matter, the abuse of the closed shop, we have had testimony both in this hearing and in previous hearings of this committee that the closed shop with the closed union leads to many abuses on the part of labor unless the law contains some protection to the employer and to workers, too, whereby the National Labor Relations Board would be empowered under an unfair labor practice charge to take jurisdiction over the actual practices of unions if and when they attempt to force a closed-shop contract upon an employer.

For example, we have had testimony in this record at previous hearings and again in this hearing that there are instances in which an employer does not have in his small plant more than a very few workers—to use a hypothetical, we will say 3 or 4 out of the 20—who are members of the union, and yet the representative of the union will

walk into his shop and lay down a closed-shop contract and say, "Take it or leave it, and if you leave it, a picket line will be in front of your shop tomorrow morning."

I assume you do not countenance that type of organizing activity on the part of any A. F. of L. organizer?

Mr. GREEN. We never have.

Senator MORSE. Do you, therefore, object to having any labor law contain a provision which will give to an employer or, for that matter, to the workers in his plant, the right to file a charge against the officers of a union who use such organizing tactics in order to have them declared an unfair labor practice by the Board and thus protect workers and employers from that type of closed-shop organizing?

Mr. GREEN. Well, Senator, you have presented what I consider an exceptional case, and I never understood that legislation by the Congress of the United States was based upon some isolated extreme situation, thinking that it was based upon the general need of the country for the enactment of such legislation.

Now those are matters that in my judgment should be corrected by the unions and employers themselves voluntarily and willingly without the enactment of legislation. Why is this constant call for government to go into labor all the time?

Now, you know something about the history, I think, of the ladies' garment-manufacturing industry, how the wages were down at a sublevel—a sweatshop level—and some that were dissatisfied with it organized and tried to make the fight. The employer would give them fairly decent conditions and agree to fairly decent wages and union representation and everything. Then he would find that the competition from those who still operated sweatshops was so great that he just couldn't pay that rate and he couldn't correct it himself but he presented the facts to his workers—his employees.

Then they interested themselves and, as a result of it, they would advertise saying that John Jones operated a sweatshop as a sweatshop operator—gave a detailed report of the wages and conditions under which the work was done in a cellar or with poor ventilation and unsanitary conditions and all that. They would say that their employees were in a well-lighted building with good sanitary conditions, employed at good wages, but they cannot compete. They would say, "We call upon our friends to refrain from buying the goods manufactured by this person and call upon workers to refrain from working there."

In some instances, I suppose, they put picket lines out advertising it as highly unfair. Now, as a result of that, the Ladies Garment Workers has practically driven the sweatshop out of that industry and raised the standards of life and living for those people to a high level, providing health and hospital service for workers, and they have established arbitration methods between employers and employees, so there are no strikes occurring in that industry—scarcely ever.

Now, we are fearful that, if you put such a measure in this statute dealing with a situation like that, you are going to prevent us from eliminating sweatshops, unfair employers, protect them in their policies of undermining the fair employer and paying wages that are indefensible.

Senator MORSE. I understand your fears.

Mr. GREEN. Just saying no to your question would probably not make that clear, but I want to give you the reason for my feeling.

Senator MORSE. I understand your fears and the theory behind your fears, but we are confronted not with a theory on this committee; we are confronted with a fact, and the fact is that, although you cite these as exceptional cases, the record is too replete with examples of them for us to sit here and not take cognizance of them.

So my next question is, Do you know of any legitimate right of labor—and I don't want to destroy a legitimate right of either labor or management—do you know of any legitimate right of labor that would be sacrificed by putting into the law jurisdiction in the National Labor Relations Board to determine whether or not a union is guilty of such an abuse as I have outlined; and, if it is, then take those steps necessary to prevent the abuse by, for example, refusing to recognize any such contract that is rammed down the throats of an employer by such high-handed methods?

Mr. GREEN. My answer to that is I don't believe those questions should be dealt with and could be dealt with satisfactorily by legislation. I think that those are subjects that must be dealt with by the national and international unions themselves. I feel sure that the national and international unions are willing to deal with just such questions as that.

Senator MORSE. They would be dealt with, would they not, Mr. Green, by the international union; no power would be taken away from the international union to deal with them, save and except in those instances where cause could be shown to exist to the effect that the union hasn't dealt with them, that the practice does exist, and that nothing is being done about it by the international union.

At that point, if we are to give labor all the benefits—and I think we should—of the type of governmental services and aid and protection that it gets from legislation such as the Wagner Act, for instance, the corollary ought to be that the Congress will protect the legitimate rights of employers and of the public from such coercive methods on the part of the unions.

What is wrong with that? Isn't that even-handed justice?

Mr. GREEN. I think that the basic principle is wrong, and that is more legislation. There are some questions, and this one I think is one that can be handled much better voluntarily on the part of the representatives of the unions and management than it can be handled by reason of some legislative provision.

Have you examined this Senate bill now as prepared?

Senator MORSE. Yes; I have.

Mr. GREEN. And do you feel that there is power conferred upon the Labor Relations Board to deal either directly or by implication with such situations as that?

Senator MORSE. I don't think enough power under the Thomas bill has been given to it.

Mr. GREEN. I think it should be considered and examined because under this bill (S. 249) there is considerable power conferred upon the Labor Relations Board.

Senator MORSE. You see, Mr. Green, one of the problems that confronts those of us who want to restore the principle of the closed shop for voluntary collective bargaining between employers and unions where the employer in good faith wants that type of a hiring program

in his industry, I say those of us who want to protect that principle cannot ignore that type of public reaction which in my judgment produced the closed-shop restrictions of the Taft-Hartley law.

As you know, I don't like that restriction, but I cannot escape the conclusion that there is a tremendous public demand to have the Government take some jurisdiction over what is referred to as the abuses of the closed shop, and I have only cited this as a typical example.

In my judgment, as a legislator, if I am to protect the principle of the closed shop, which I think you are entitled to and which I think employers who want it are entitled to, I have the corresponding obligation of seeing to it that the legislation is so written that abusive practices under the closed shop can't develop.

In other words, it is the old adage that we just can't have our cake and eat it too, in this matter. If we are going to guarantee to you the principle of the closed shop, I think we have the duty of seeing to it that it is so phrased that in practice it can't be abused. That is the only thing I am seeking to do.

I confess I haven't as yet decided upon the exact language that will do the job, and I shall welcome any drafting assistance that I can get from the labor leaders or the management leaders who want the closed shop, but I want it clearly understood that in my judgment there must be this modification; that if the closed shop is written into the legislation—and I think it should be—we have got to have the jurisdiction in the Board to take cognizance of any evidence that can be presented of abuse of the closed shop and make that an unfair labor practice.

Now it can be handled in the field very quickly by the regional office; it is a question of fact. Did the union or didn't it follow that course of action? If it did follow that course of action, it did wrong.

If it didn't, the complaint is immediately dismissed. It doesn't stop collective bargaining in the meantime.

That is the problem confronting me. I am perfectly honest with you by letting you take a little peek into my thinking on it because, as far as I am concerned, I hope we can draft a piece of legislation here that will protect those unions and employers who believe that under freedom of contract they ought to be allowed to contract for a closed shop. At the same time, however, I think that the abuses of the closed shop ought to be made an unfair labor practice.

That is all, Mr. Chairman.

MR. GREEN. I appreciate your sincerity. Let me make this one observation. There is a section in this Senate bill which provides, I think it is an unfair labor practice, for any union to attempt to force an employer to accept another union where an election has been held and a union certified as the collective-bargaining agent.

MR. THATCHER. Section 8 (b) (1) (A).

MR. GREEN. So that, where a union has won the election and has demonstrated its right to engage in collective bargaining, the law says that no union shall be permitted to attempt to force an employer to recognize another union. That is in the law. That would deal in some respects with your question.

SENATOR MORSE. Not at all. It doesn't even cover mine, because the case covered by that provision is one where the union is the collective-bargaining agent. I am dealing in the situation in which they

are using the "take it or leave it" contract device where in fact they do not have more than 3 or 4 out of 20 men in the plant.

The CHAIRMAN. The subcommittee which has been handling arrangements has asked President Green to come back this afternoon at 2:30. Mr. Walter Munro will be shifted to appear Wednesday afternoon, and after Mr. Green the remaining witnesses who were scheduled for this afternoon—Mr. Gossett and Mr. Irving and Mr. Tichy—will be heard in order after Mr. Green.

Now, since it is understood that Mr. Irving and Mr. Tichy will testify together, probably we can arrange so that we can keep up with the schedule this afternoon. if we all make that end one of our objectives

Senator DONNELL. Mr. Chairman, may I interrupt at that point? It happens that, in point of seniority, I come at the end of the list on all of these examinations and am, therefore, in a position, should the witness not finish this afternoon, that I am not going to be willing to consent that at all events we are going to complete this testimony this afternoon.

It depends on whether or not the preceding examiners and myself are able to complete it as to whether I shall be willing to have the examination of Mr. Green concluded this afternoon. I want to state that frankly, because I would want Mr. Green to come back if we do not finish with him this afternoon.

The CHAIRMAN. You will have to make arrangements with the subcommittee. The Chair has to follow their directions, and we have had to change the directions almost every day.

Senator DONNELL. I want to have the record show that, so that Mr. Green will accommodate himself to it. This is a matter of vital importance to his organization, and I want an unhurried opportunity to examine Mr. Green.

Senator MORSE. It is the intention of the subcommittee to continue with Mr. Green until we finish with him.

Senator DONNELL. Even though it be not this afternoon; is that correct?

The CHAIRMAN. I want to say the Chair merely tries to give out as much information as he can give. We have all been here, and we realize that these schedules haven't worked at all; we have had to change them, but there is such a thing as being fair with witnesses who are waiting, and that is the decision as it is as of this moment. Therefore, it is given out.

Senator MORSE. There is also such a thing as being fair to the Chair, and I don't think we have been fair to the Chair in having this procedure at all.

The CHAIRMAN. The Chair has been sentenced evidently to a lifetime here.

The committee will recess until 2:30.

(Whereupon, at 12:30 p. m., the committee adjourned, to reconvene at 2:30 p. m. of the same day.)

AFTERNOON SESSION

The CHAIRMAN. The committee will please be in order.

According to the schedule, the Senator from Minnesota will be the next interrogator, but the Senator from Kentucky has a few questions, and we will start with Senator Withers then.

STATEMENT OF WILLIAM GREEN—Resumed

Senator WITHERS. Mr. Green, do you know of instances where the employers have won an election where strikebreakers were enabled to vote?

Senator DONNELL. What was the Senator's question? I did not hear it. Would you repeat it, please, Mr. Reporter?

(The question referred to was read by the reporter.)

Mr. GREEN. Well, I could not relate an instance now at the moment, Senator, because I do not recall.

Senator WITHERS. But do you know whether or not there have been cases.

Mr. GREEN. Yes; cases of that kind have happened.

Senator WITHERS. What were the conditions in the unorganized field prior to organization?

Mr. GREEN. Conditions of work?

Senator WITHERS. Of workers.

Mr. GREEN. In unorganized fields?

Senator WITHERS. Yes.

Mr. GREEN. As a rule, the wages were lower; the hours of work were longer; the conditions of employment more unsatisfactory, and, of course, there was no agency through which the individual workers could correct a grievance.

Senator WITHERS. As a rule, what were the housing conditions?

Mr. GREEN. How is that?

Senator WITHERS. As a rule, what were the housing conditions—the homes?

Mr. GREEN. Well, in districts such as West Virginia, of course, where the company owned the houses, the homes, the housing conditions were bad.

Senator WITHERS. I want to ask you another question. I made notes of these as you testified, and I want to have them in order. Do you have objections to injunctions where they merely were invoked for the purpose of protecting the property against violence, properties of employers against violence?

Mr. GREEN. Injunctions for the purpose of protecting property?

Senator WITHERS. Against violence.

Mr. GREEN. You mean in strikes?

Senator WITHERS. Yes, sir.

Mr. GREEN. Well, there never has been any application made for an injunction for that special purpose so far as I know, and I know of no need for an application for any such injunction.

Senator WITHERS. You mean you do not know of cases where injunctions have been granted against the destruction of property?

Mr. GREEN. Destruction of property. Of course, I will admit, there have been some destruction of property in some strikes, but that is due to various causes and various reasons, but I do not think an injunction will restrain such destruction or that it would serve any good purpose at all.

Senator WITHERS. What would be the ultimate effect on the national income, do you think, of depressing the financial income of a union, not paying a fair wage, not giving the proper opportunities of freedom and the rights—

Mr. GREEN. What effect would it have upon the national income if wages were reduced?

Senator WITHERS. Yes.

Mr. GREEN. It would have a very deterrent and serious effect because it would affect expenditures in many ways, and the payment of debts and the payment of bills, in various ways. It would have a very deterrent effect.

Senator WITHERS. Not only would it affect labor but it would affect the public, in general, do you think?

Mr. GREEN. The public in general.

Senator WITHERS. Reduce the buying power of the public ultimately?

Mr. GREEN. Yes.

Senator WITHERS. There has been some question here about instituting suits against unions. Do you know of instances where the union can be sued for the unauthorized act of some laborer committing some depredation or violating some agreement, and which act has not been ratified by the union itself?

Mr. GREEN. Well, I do not know of any case of that kind, but voluntarily or not ratified by a union, I do not recall of any, Senator, at one time or another.

Senator WITHERS. There has been quite a bit here about the unions being sued.

Mr. GREEN. I do not know of any case of that kind.

Senator WITHERS. You made a statement this morning in which you said you thought the President had inherent power to act in case of an emergency when the safety of the Government itself was imperiled. That he had an inherent right to act to preserve it.

In the event he does not have any rights to act, what plan or suggestion would you make, what steps should be taken to prevent a calamity?

Mr. GREEN. Well, you see, that is a purely speculative question. We are talking now about management-labor relationships. I cannot conceive of such a situation as that arising in America where such a situation as you describe, threatening the very existence of our Government, and its safety, and so forth, should exist.

Senator WITHERS. You do not think labor would carry conditions to that extent?

Mr. GREEN. No; I do not.

Senator WITHERS. So, you have not thought of any plan or been advised of any plan to be offered in the event such a measure should be introduced in Congress.

Mr. GREEN. No; because I repeat again what I said this morning, that we learn more in the school of experience than we learn anywhere else in the world, and we have never had such a situation as that arise in all the history of our great country. It is not likely that it will arise.

I know that labor itself would serve to prevent such a situation as that because labor is just as patriotic as any other class or group of Americans.

Senator WITHERS. They are part of the public and part of the country itself.

Mr. GREEN. They are part of the public and part of the Nation, and there is no union, there is no organization in America, such as the American Legion or any other American organization, that is

more devoted to our form of government than the American Federation of Labor. I know; and it is the one agency in America that is now standing as a bulwark against the infiltration of communism into America.

Should that kind of an agency be strengthened and encouraged or should it be weakened and destroyed? Whose interests would be best served?

Senator WITHERS. You think then that the Government would be safer not to have some restriction passed by Congress placing the power in some board or some individual or in the President?

Mr. GREEN. I do not think there is any need for that at all.

Senator WITHERS. You do not think it is necessary.

Mr. GREEN. Because we want to maintain our democracy, not to establish dictatorships.

Senator WITHERS. Well, you understand such a bill will be introduced lodging the power in somebody, do you not?

Mr. GREEN. I understand that there is argument in support of that.

Senator WITHERS. In the event a provision should be made that some power should be lodged in a board which is appointed by some governmental official, would he be directly responsible to the people or to the party appointing him?

Mr. GREEN. Well, I suppose from a democratic standpoint he certainly would be.

Senator WITHERS. He would not be directly responsible to the people if he were a board member, would he?

Mr. GREEN. Probably not.

Senator WITHERS. Would you prefer that power, if it should be granted, to be lodged in the President of the United States or some board?

Mr. GREEN. Well, I do not think there is any reason for us to actually lodge that power in anyone's hands, but I expressed the opinion this morning, that in an unforeseen situation that nobody can see or analyze, that the power is vested in the President now to act.

Senator WITHERS. Have you read the evidence of Mr. W. H. Davis, who testified here?

Mr. GREEN. Only the press report of it. I did not read the testimony.

Senator WITHERS. You do not recall reading what he said relative to the powers of the President, whether or not he had an implied power or inherent power, that he would exercise the power anyway, even though the courts should later hold his act unconstitutional, after he had saved the Government and saved the Constitution, and the courts could hold his acts were unconstitutional; do you subscribe to that idea?

Mr. GREEN. Well, I would have to read it over before I could express an opinion; I do not know. I suppose that statement is related to other statements that he made. You would have to take it all into account before giving an answer to that.

Senator WITHERS. Well, it is somewhat in keeping with the statements you made, except you thought that perhaps he had the inherent power.

Mr. GREEN. I see.

Senator WITHERS. I believe that is all.

The CHAIRMAN. Senator Humphrey.

Senator HUMPHREY. Yes, Mr. Chairman, I have a series of questions I would like to ask our distinguished witness today.

First of all, I would like to go back relative to the days of the labor movement, prior to Taft-Hartley. I would like to ask you, as the president of the American Federation of Labor, Mr. Green, did the Government of this Nation praise or condemn the actions of organized labor during that critical period of our history, from 1941 to 1945, VJ-day?

Mr. GREEN. Well, Senator, I will say to you truthfully that I have a number of very interesting letters in my files from Government officials in which they pay very wonderful tribute to the American Federation of Labor for the excellent service it rendered prior to the war, during the war, and following the war.

I recall at the moment a letter that I received from Secretary of War Patterson, who was in distress over the fact that he found it very difficult to build barracks for troops, and terminal construction points, the airfields, and so forth, and he called officially on us and personally requested the American Federation of Labor to supply men for him out in Washington and down in Texas.

We immediately made a call to our unions for skilled labor, and they responded in a wonderful way, and in a very short time a sufficient number to meet war requirements had landed at these places and put to work and completed the Government program in a very short length of time.

He said, without reservation, that he could not have gotten the men to do the job, he could not have gotten the work performed, if it was not for the service which was rendered by organized labor.

Senator HUMPHREY. It is true, is it not, Mr. Green, that the President of the United States, the Chief of Staff at that time—I think it was the former Secretary of State—

Mr. GREEN. The same way.

Senator HUMPHREY. General Marshall, General Eisenhower, all of these distinguished Americans came before labor organizations, community after community, and praised their valiant, courageous, and patriotic service during the war; is that not right?

Mr. GREEN. That is right.

Senator HUMPHREY. Now, you know my State of Minnesota?

Mr. GREEN. Yes.

Senator HUMPHREY. And you know a little bit about the political picture that existed in that State?

Mr. GREEN. Yes.

Senator HUMPHREY. One of the proponents of this law, known as the Taft-Hartley Act, was the former Senator from the State of Minnesota; is not that correct?

Mr. GREEN. That is correct.

Senator HUMPHREY. Would you be interested in hearing a quotation that was made on February 3, 1941, which was just slightly over, a little over a month and a half after Pearl Harbor—upon reflection it was prior to Pearl Harbor, I should say, February 3, 1941, over the NBC, the Blue Network, National Radio Forum—

Senator DONNELL. It would be 10 months prior to it.

Senator HUMPHREY. Ten months prior to Pearl Harbor; that was during the national defense period; that was during a period which some people thought was a bit disturbing in labor-management rela-

tions; we had some difficulties in some places in aircraft plants, and so on. I think, you will recall, that that was some of the aircraft plants.

This is what Senator Ball from Minnesota had to say, and I quote his exact words. This is under the Wagner Labor Relations Act:

Strikes are declining. The Department of Labor statistics show that during 1940 there were 160 fewer strikes than in 1939. Only half as many employees were involved, and the loss in man-days of work in 1940 was only about one-third of that of 1939. Our labor relations today are much better than they were in 1916 or in 1917.

He was using that as a comparable prewar period. I bring that quotation here just for the simple reason that there is one period that we have a difficult time evaluating as a normal period, which would be the war period; is not that correct?

Mr. GREEN. That is correct.

Senator HUMPHREY. I do not think there is any decent American who will say that during the war period labor was not unstinting in its devotion and patriotism; it gave unstintingly of its labor and time and of its capacity; is not that right?

Mr. GREEN. Yes; and may I make this observation: That as a very impressive conference we held with the late President Roosevelt, just when we were entering into World War No. 2, at the White House, we, the representatives of the American Federation of Labor, made a solemn no-strike pledge for the duration of the war. We kept that pledge, 99 percent.

Senator HUMPHREY. That is a pretty good record, is it not? They have been making a lot of profit on Ivory soap, and it is only 99.44 percent pure. That is a very good record.

Mr. GREEN. I am glad to have you make that comparison.

Senator HUMPHREY. Let me make another comparison from this same statement, from this same speech—that is just as pure. [Laughter.]

This is another quotation from the same speech of February 3, 1941, over the NBC stations, the Blue Network, the National Radio Forum:

We are aware of the fact that all disputes in the defense industries and other industries are not due solely to labor, but are due, in part, to the recalcitrant attitude of certain employers against the national labor policy.

I bring these up only because this was in a very difficult period in American life, the period from 1940 to 1941, in which we were converting from a peacetime economy into a defense economy, and yet at the same time our country was not directly involved in war; and, if you recall, there were some difficulties at that time, and yet one of the proponents of the Taft-Hartley Act, and one who wanted to go a good deal further than the members of the committee, made this statement just prior to the war, "Our labor relations today are much better than in 1916 or 1917. Strikes are declining." Very glowing terms.

Now, I bring this in because I am of the opinion that we cannot discuss the Taft-Hartley Act, its meanings and purposes and objectives and its impact upon the economy, without understanding the environmental circumstances in which it grew, in which it was developed, and out of which it came.

I do not think there is any fair-minded American who will stand before any audience and say that the labor-management relationships

were not improving up until December 7, 1941. The record conclusively proves that they were improving.

No. 2, you have said to me, from your own testimony, that from December 7, 1941—

Senator TAFT. I know of no such record, Senator Humphrey.

Senator HUMPHREY. You do not know of any such record?

Senator TAFT. I know of no such record. This is an intangible thing. There is no evidence to support and no evidence to deny.

Senator HUMPHREY. This is our time now. Let me read that again.

Senator TAFT. You said "no fair-minded American"—

Senator HUMPHREY. Well, I attribute that—

Senator TAFT. I claim my privilege. [Laughter.]

Senator HUMPHREY. I attribute that to all Senators.

Well, I still stand by my statement, Senator. [Laughter.]

Strikes are declining.

This is February 3, 1941—

The Department of Labor Statistics show that during 1940 there were 160 fewer strikes than in 1939.

Only half as many employees were involved, and according to the former Senator from the State of Minnesota, who was quite an advocate of labor legislation, he was of the mind that there were considerable improvements.

Mr. GREEN. Who reported that?

Senator HUMPHREY. This is Senator Joseph Ball, of Minnesota.

Mr. HINES. He is not with us any more.

Mr. GREEN. His statement ought to be accepted.

Senator NEELY. You mean accepted on this side of the aisle, particularly, do you?

Senator HUMPHREY. I would like to ask you, Mr. Green: Did you not receive a medal from the Government of the United States—I think it was from the War Department—for distinguished service that you performed during the war period? Did you not receive some sort of testimonial?

Mr. GREEN. Oh, yes.

Senator HUMPHREY. What was that for?

Mr. GREEN. For distinguished service rendered during the war period to our Government.

Senator HUMPHREY. Above and beyond the call of duty?

Mr. GREEN. Yes; above and beyond the call of duty.

Senator HUMPHREY. Yes.

Now, I repeat my statement that up to 1941, according to even severe critics of labor-management policies, there was an improvement in labor-management relationships during the war. Labor was gloriously praised.

Then the great question is what happened immediately after the war, is it not? There was no proposal for Taft-Hartley during the war, was there, Mr. Green?

Mr. GREEN. Not that I recall.

Senator HUMPHREY. Do you recall anyone's getting up on the floor of Congress and saying that we ought to have a Taft-Hartley Act during the war?

Mr. GREEN. Never.

Senator TAFT. May I interrupt for just a moment, Senator Humphrey?

Senator HUMPHREY. Is this on Republican time or on our time?

Senator TAFT. Only to ask one question—charged to us, if you wish. The House of Representatives passed bills twice, did they not, completely revising the Wagner Act before the war, just before the war?

Senator HUMPHREY. Completely revising it?

Senator TAFT. In the House of Representatives.

Senator HUMPHREY. The Government of the United States did not adopt such legislation.

Senator TAFT. In 1939 the representatives of the people, the House of Representatives—

Senator HUMPHREY. That is not the Government of the United States; that is part of it.

All right, I wonder whether or not Mr. Green would be willing to give me a comment or two on some of the facts that I have compiled here for your review and for your observations.

The Taft-Hartley Act was a product of the Eightieth Congress; is that right?

Mr. GREEN. By the Eightieth Congress: yes.

Senator HUMPHREY. According to the President's Economic Report of January 1949, which I have here on my desk, on page 119 we find the following facts concerning consumer index of prices: The index, 1945, was 128.4; in 1946 it was 139.3; in 1947, January 1947, it was 159.2. I want you to keep those figures in mind: 128, 139, and 159.

Remember, when we hear about workers we never are told about their net earnings. You know, you never read anything about net earnings of workers. Do you ever read anything about net earnings of workers?

Mr. GREEN. Very seldom.

Senator HUMPHREY. Now, the gross weekly earnings of workers in 1945, the average gross weekly earnings in manufacturing establishments—this is in manufacturing establishments and is to be found on page 107—was \$44.39.

Senator NEELY. Per week?

Senator HUMPHREY. Per week.

In 1946 it was \$43.74. This is despite the fact that the consumer index had gone up 11 points while the gross weekly earnings had gone down about 65 cents.

Corporate profits in 1945 were \$8,700,000,000. Corporate profits in 1946 were \$12,800,000,000. By 1947 they were \$18,100,000,000.

Now, I present these facts, and they are facts—this is not a matter of opinion—and in doing so I want to ask you: When the cost of living goes up, as it did from 1945 to 1946 and 1947—by 30 points to 1947—with corporate profits up 250 percent from \$8,700,000 to \$18,100,000,000, and average gross weekly earnings down from \$44.39 to \$43.74 in 1946, and up to \$49.29 in 1947, do you believe, Mr. Green, that these unmistakable trends had anything to do with the strikes that took place in 1946?

Mr. GREEN. They certainly did. That was a basis of dissatisfaction and discontent and action as reflected in strikes in 1946.

They were conscious of the fact—figures of this kind were available. Our research department was making them known, and as a result of it they became dissatisfied and discontented, and then the housewife going to buy goods in the stores and in the business establishments, and so forth, found that her dollar was buying less, that prices were going up and the dollar was buying less, and that had much to do with strikes in 1946.

Senator HUMPHREY. Would you be interested in hearing another statement that I have here from the Congressional Record of June 10, 1941, page 4941? Please permit me to use the information that I am quite familiar with because I did have a little political campaign some months ago.

I again refer to a gentleman who knew a great deal about these things, and I have a high respect for him personally.

Senator Ball, in speaking, said:

There is at present the office of Leon Henderson, OPA, which is attempting to keep prices from spiraling.

This is June 10, 1941. Now, listen to this:

About 75 percent of the labor disputes which arise are due to demands for wage increases and such demands will continue so long as prices continue to increase.

Mr. GREEN. Yes.

Senator HUMPHREY. Now, I believe that statement fits in pretty well with this pattern which I have not heard discussed too much, nor did I hear it discussed too much during the time of Taft-Hartley. I think it is about time that this story was told to the American people, of one important reason that we had this tremendous amount of disturbance in the labor-management field. There was a disturbance, a very serious one which shocked many Americans, but many Americans did not know what was going on. Unhappily they woke up a little bit later to find out what was going on, they woke up to find their savings gone.

I will ask you a question, Mr. Green.

What has happened to the savings, the war bonds of the workers?

Mr. GREEN. Well, the record shows that the savings of the workers as reflected in the purchase of war bonds have been declining steadily. These bonds have been cashed and are being cashed in large numbers all during this period of inflation, and that is very significant, because it means that their earnings from wages have not been sufficient to maintain even a fairly decent standard of living without using up some of their savings.

Senator HUMPHREY. You are familiar with the term "consumer credit," are you not?

Mr. GREEN. Yes; to a great extent.

Senator HUMPHREY. Is it not correct that the last year saw the greatest increase in consumer credit in the history of this country?

Mr. GREEN. Yes.

Senator HUMPHREY. Who were the people who were getting the consumer credit?

Mr. GREEN. I beg pardon?

Senator HUMPHREY. Who were the people who were getting the consumer credit for washing machines and bathroom equipment and cars and ice boxes and so forth?

Mr. GREEN. Well, it was the manufacturers of them.

Senator HUMPHREY. I mean, who was borrowing the money? I say, who was borrowing the money?

Mr. GREEN. The workers, of course. The workers were borrowing the money with which to buy these things, and they were running into debt as a result of it.

Senator HUMPHREY. Well, here is a little report that I think will be of interest to you, from the Board of Governors of the Federal Reserve Board in their survey of consumer finances for the years 1946 and 1947:

The failure of the wage-earner group to improve its real earnings position during the past year indicates that workers will continue to draw upon accumulated past savings in large measure to meet current living expenses.

We come down here a little bit, and here is what it says:

The families of these workers were grouped for purposes of spending units and were found in the beginning of 1948 to possess substantially less liquid assets in all levels of holdings than they were in 1947. Skilled and semiskilled workers' median asset holdings declined from \$400 to \$250 on an average during this period. The proportion not holding liquid assets increased from 22 to 27 percent.

Those that had none at all.

More than one-half of the unskilled workers' spending units held no liquid assets, an increase of 5 percent from the early part of 1947.

Now, I bring these things out because you cannot consider labor-management relationships in a vacuum, as has been so well pointed out again by a quotation that I could well bring to your attention from the same comments of the same speech that I have used here just a moment ago.

Then, you would say, or would you not say, that the period in which the Taft-Hartley legislation was conceived was a period of economic inequity?

Mr. GREEN. Yes; that is the trouble. It originated at a time when we were suffering from economic inequity and where the balance was clear out of line, and there was great dissatisfaction all over the United States among the working people of the country.

Senator HUMPHREY. Do you recall back in the early thirties, Mr. Green, when out in the Middle West there were movements known as the farm holiday movement?

Mr. GREEN. Yes; I recall it; yes.

Senator HUMPHREY. Were the farmers joined together for the purposes of protection of their property?

Mr. GREEN. Yes.

Senator HUMPHREY. Do you recall that the Congress of the United States legislated as to their internal organization because they decided to protect their property from the people who were going to take it away from them?

Mr. GREEN. Yes; I think I recall that, but not as clearly, perhaps, as you do, Senator.

Senator HUMPHREY. Well, I will say that during that period of time we had what we called farm holiday movements. We had farm organizations who saw fit to have mortgages bought up at \$5 for the whole farm. That is when we got to the farm-mortgage moratorium.

Mr. GREEN. Yes.

Senator HUMPHREY. The milk flowed in the ditches around Iowa and South Dakota in preference to shipping it to market, and the Congress of the United States never legislated against the good farm folks because the farm folks were being victimized by a deflated market.

Mr. GREEN. Yes.

Senator HUMPHREY. Now, this morning I heard you make a statement here about the American Federation of Labor having always supported the farm industry or the farm economy, and in response to a question from Senator Hill——

Mr. GREEN. That has been our policy.

Senator HUMPHREY. You have supported price supports for farmers?

Mr. GREEN. Yes.

Senator HUMPHREY. You supported the REA?

Mr. GREEN. Yes.

Senator HUMPHREY. You supported cheap farm credit?

Mr. GREEN. Yes; all of them.

Senator HUMPHREY. All the way down the line—farm cooperatives?

Mr. GREEN. Yes; all the way down the line.

Senator HUMPHREY. Could you give me some information on this? Did the National Association of Manufacturers ever support the REA?

Mr. GREEN. Not that I know of.

Senator HUMPHREY. Nor that anybody else knows of. [Laughter.]

Did the NAM support farm-price supports?

Mr. GREEN. I have no information that they ever did.

Senator HUMPHREY. You supported the regulation of the stock market, did you not, as an organization?

Mr. GREEN. Oh, yes.

Senator HUMPHREY. The Securities and Exchange Commission Act?

Mr. GREEN. Oh, yes; all of those measures for the interests of the people.

Senator HUMPHREY. Do you recall who led the fight for the regulation of the stock market under the Securities and Exchange Commission bill? Do you remember who led the fight against it?

Mr. GREEN. I do not know at the moment, Senator.

Senator HUMPHREY. Well, then, may I just say that it was the National Association of Manufacturers?

Mr. GREEN. I thought it was. I was debating whether it was they or the chamber of commerce.

Senator HUMPHREY. This is the same group [laughter]. I am not so familiar with all of the resolutions of the chamber, but I am quite familiar with the NAM resolutions.

Do you recall when social security was up for legislation?

Mr. GREEN. Yes.

Senator HUMPHREY. Do you remember what they said about it?

Mr. GREEN. Yes.

Senator HUMPHREY. What did you folks do? You supported it, did you not?

Mr. GREEN. Oh, yes.

Senator HUMPHREY. What did the NAM do?

Mr. GREEN. Always opposed it.

Senator HUMPHREY. Absolutely. They have opposed social security, REA, regulation of the stock market. The only thing that they have been in favor of since 1900-something was the Panama Canal, and that was debated hotly.

Senator NEELY. No; it was the Taft-Hartley law.

Mr. GREEN. The Taft-Hartley law.

Senator HUMPHREY. I meant up until that time. I was going to keep back of 1946.

Now, I bring this in because there seems to be an intent to divide labor, as Senator Hill so well put it, from the farmer, and there has been a good deal of organizational activity carried on to prove to the American farmer that the Taft-Hartley Act was good for him.

Mr. GREEN. Yes.

Senator HUMPHREY. Is it not true, Mr. Green, that the wages of the worker and the farm income of the farmers go up and down together?

Mr. GREEN. Very largely.

Senator HUMPHREY. Your research department issued some bulletins on that, I am told.

Mr. GREEN. That is right; we went into that pretty carefully and made a study of it; and we issued bulletins on it.

Senator HUMPHREY. There is a real paralleling up and down.

Mr. GREEN. Moving together up and down.

Senator HUMPHREY. Just as the wage earner's income goes up and down, the farm income goes up and down together. You will find that the historical picture of America shows that as far as profits of big business are concerned, that has little relationship—

Mr. GREEN. They go down together.

Senator HUMPHREY. And that is not just a statement. It is a matter of fact.

Mr. GREEN. Yes.

Senator HUMPHREY. During the past year what has happened to farm prices?

Mr. GREEN. Well, there have been some radical changes in farm prices.

Senator HUMPHREY. They have been going down.

Mr. GREEN. Yes.

Senator HUMPHREY. What has happened to the real wages of workers since 1946?

Senator DONNELL. May I ask the Senator what has happened to farm prices since November 2, 1948?

Senator HUMPHREY. What is that?

Senator DONNELL. Since November 2, 1948, have you observed what has happened to farm prices?

Senator HUMPHREY. I refer you to the Department of Agriculture so that you will have authoritative information, Senator.

Senator DONNELL. Thank you.

Senator HUMPHREY. What has happened to the real wages of workers?

Mr. GREEN. The real wages of workers have been declining because they buy less, and it has been impossible for them to maintain, to keep their wage level lifted from time to time so that it corresponds with the price level.

Senator HUMPHREY. Very good.

Now, all the time this was going on where we had this picture of the consumer index going up—and nobody seems to want to talk about what has happened to big business in this country—there were \$106,-700,000,000 net profits in 8 years; that is what the facts are. They doubled their assets during the war. Nobody likes to talk about that because, you know, they are so helpless that we have to protect them [laughter] and the weekly wages of workers, the gross weekly wages—and you talk about net profit, and we talked about that awhile ago—when we get up in the big category of the billions we talk “net.” When it gets down to your kind of workers, the kind of people that we know, at \$49.25 a week 1947 average weekly wage, it is quite another situation.

Now, while the same Taft-Hartley Act was being enacted, were you familiar with House Resolution No. 1, which was introduced in the House of Representatives of the Eightieth Congress, the tax bill, the tax-reduction bill?

Mr. GREEN. Yes; I am somewhat familiar with that; yes.

Senator HUMPHREY. Well, I have here in my possession a report from the United States Treasury which gives some percentage figures on the meaning of that tax reduction in which, perhaps, we might be interested. It shows that while we have profits going up, prices going up, wages lagging behind—and there is no sound economist who will not admit that wages lagged behind prices in any rising market—here is what we find out: The percentage increase in incomes after taxes—

Mr. GREEN. After taxes.

Senator HUMPHREY. Under the new tax law, which I hope this new Congress will do something about, if you have a \$1,500 income, you got an increase of 3.2 percent of net income take-home pay. We understand that. If you had \$5,000 a year income you got 4-percent increase in your take-home pay. If you had \$10,000 income you got 7.2-percent increase in your take-home pay; if you had \$100,000 income you got 45.1-percent increase in your take-home pay; if you had \$250,000 income you got 59.1-percent increase in your take-home pay.

Now, all of this was happening while the workers were being measured for the Taft-Hartley Act.

Mr. GREEN. Yes.

Senator HUMPHREY. Did you testify at the hearings on the Taft-Hartley law?

Mr. GREEN. Being considered?

Senator HUMPHREY. Yes.

Mr. GREEN. I certainly did.

Senator HUMPHREY. Were your recommendations received favorably? Were they honored? Were they acted upon favorably?

Mr. GREEN. I think every one was rejected.

Senator HUMPHREY. Every one was rejected. In looking over the committee that you testified before, and this is sort of a personal question, would you say that you had as much or more experience than most of the men who were hearing you, to whom you were giving your testimony?

Mr. GREEN. You mean in labor matters?

Senator HUMPHREY. Yes, sir; in labor-management relationship matters.

Mr. GREEN. Labor-management, and so forth, well, I put all my life in there, and I could not pick out any who were on the committee who ever worked in a factory, mill, or mine.

Senator HUMPHREY. You have kind of grown up with labor, with the labor movement; have you not?

Mr. GREEN. Yes.

Senator HUMPHREY. You have been honored by this Government, have you not, for this distinguished service?

Mr. GREEN. Yes.

Senator HUMPHREY. You have also been looked upon always as a rather—not only would I say rather—but a distinguished and respectable and responsible citizen. Your recommendations, you say, were not taken to heart or at least they were not acted upon.

Mr. GREEN. I do not think any one of them, any recommendations that I made, were accepted.

Senator HUMPHREY. Let me ask you a question: After having given your testimony and the Taft-Hartley Act was enacted, in your candid judgment, did it improve or did it injure labor-management relations in this country?

Mr. GREEN. It injured it very much.

Senator HUMPHREY. Injured it?

Mr. GREEN. As I stated here this morning.

Senator HUMPHREY. The American Federation of Labor is an organization that is devoted, is it not, by its principles and ideals to a free economy?

Mr. GREEN. Absolutely. It is an outstanding defender of our free-enterprise system.

Senator HUMPHREY. In other words, they cannot call you a Communist or a Socialist.

Mr. GREEN. No, absolutely, nor Socialist.

Senator HUMPHREY. In other words, you are really a free enterpriser.

Mr. GREEN. We do not mince any words on that. We are a defender of our free-enterprise system, and our form of government. They are two of the very fundamental things upon which we have never compromised.

Senator HUMPHREY. You feel that the growth and the development of unions fits within the framework of the democratic pattern or fits within the framework of what we call democracy?

Mr. GREEN. Yes; it fits right in with that; that is one reason why we would not become a part of the World Federation of Trade Unions, because it was not a free Democratic trade-union movement.

Senator HUMPHREY. And your position has been borne out, has it not?

Mr. GREEN. How is that?

Senator HUMPHREY. Your position has been borne out by events.

Mr. GREEN. Our position has been vindicated because now those who thought, as we did, have withdrawn, and the whole thing is disintegrating.

Senator HUMPHREY. All right, sir.

I would like to ask you whether or not the Taft-Hartley Act has aided the American Federation of Labor, which is an accredited American institution, believing in free enterprise and freedom and democracy, whether or not the Taft-Hartley Act has aided you in the development and growth of unions in this Nation.

Mr. GREEN. I would say, positively no. It has injured us in our work, made it more difficult for us to conduct our business, to organize

the unorganized, to maintain our unions on a sound basis, and to function as a free democratic institution.

Senator HUMPHREY. You said "organize the unorganized," and I am confident from what I have heard from the members of the committee that everybody believes it would be well if we had a better standard of living.

Mr. GREEN. Yes.

Senator HUMPHREY. And that standard of living, according to all information, has been elevated by the free action of free trade-unions in free collective bargaining in this country better than by any Government action. I mean there is no Government law that has so well elevated the standard of living as the free process of collective bargaining.

Mr. GREEN. That is right, and in establishing the American standard of living in America we are making a contribution to the permanent preservation of our form of government.

Senator HUMPHREY. All right. How about the organizing of the unorganized? Has this act helped you in that process or has it grossly hindered you?

Mr. GREEN. It has made it more difficult for us to carry on organizing work because there are so many qualifications and so many requirements that must be met by this Taft-Hartley law, and it is very difficult for us to do it.

Senator HUMPHREY. Now, I heard you answer a question this morning about costs, the costs of union organization.

Since the Taft-Hartley Act, as compared to the period prior to the Taft-Hartley Act, how could you best compare the costs of union organization activities?

Mr. GREEN. Well, I would have to prepare the figures on that, but I can say truthfully that the cost of organizing on the part of the American Federation of Labor has increased tremendously, because there has been the legal cost that has been required as a result of the Taft-Hartley law. That has been very, very great. That in itself has been of tremendous cost for unions and for everybody.

Perhaps you heard Mr. Randolph state here the other day, where one strike in Chicago, because of the Taft-Hartley law, had cost that printers' organization already over \$11,000,000 in strike benefits. That is directly traceable to the Taft-Hartley law.

Senator HUMPHREY. Have they had yet an adjudication of their dispute? Has the court acted yet in their dispute?

Mr. GREEN. There is no adjudication as yet.

Senator HUMPHREY. And still they are having to pay out?

Mr. GREEN. They are still having to pay out every week.

Senator HUMPHREY. Could you justify that, if you were on the other side of the table, as fair play?

Mr. GREEN. My conscience would not permit me to do that.
[Laughter.]

Senator HUMPHREY. Now, we have been talking a little bit about the injunction—not only a little bit, but you have given some very definite statements here about the use of the injunction.

Some time ago in this committee I heard one of our distinguished committee members talk about the Founding Fathers and the Constitution, and if I recall correctly in substance—I cannot recall the exact words, and I stand available for correction—one of the purposes of the

Constitution was to protect the individual in his rights, individual liberty.

I concur in that, but I gathered from my study of constitutional history, the constitutional history of the country, that the prime objective of the Constitution of the United States was to protect the people from the tyranny of government, the tyranny of irresponsible government.

Now, I would like to ask you whether or not you consider the injunctive processes or procedures under the Taft-Hartley law as being within the meaning of what I have just talked about, the tyranny of government?

Mr. GREEN. That is one of the chief objections we raised to the resorting to the use of the injunction when we were seeking to have the Norris-Laguardia Act passed. It was that we were substituting a tyrannical form of government for free democratic form of government. The judiciary became dictators. People were governed by orders, not by the Democratic processes, and that did not fit into our form of government.

Senator HUMPHREY. Yes.

Senator DONNELL. Would the Senator have any objection at this point to introducing just a few words from section 2 of article III of the Constitution into the record?

Senator HUMPHREY. Yes.

Senator DONNELL. (reading) :

"The judicial power shall extend to all cases, in law and equity—

it is through the courts of equity that the injunctions are issued, is that not so? The courts of equity issue the injunctions.

Senator HUMPHREY. Yes.

Senator DONNELL. (reading) :

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States and treaties made or which shall be made under their authority.

I just wanted it in the record at this point.

Senator HUMPHREY. I would like again to quote to you from the Congressional Record, volume 87, page 4940, June 10, 1941, Debates in the Senate, on the discussion of the Connally proposal to control strikes at that time.

Mr. GREEN. Yes.

Senator HUMPHREY. I again quote the former Senator from the State of Minnesota, who said, and I quote his words:

After all there can be no strikes unless a fairly substantial group of employees feel that they are being treated unfairly, and that they have a grievance, whether that grievance is real or fancied. The action of the Government at Englewood yesterday has not removed the grievance that the employees believed they had, and even if the employees do come back to work, until the grievance is adjusted to their satisfaction or they are convinced that they were and are being treated fairly, and were misled by their local leaders, the North American plants will not have the wholehearted cooperation from its employees which is necessary for top-speed production."

Now, that was the use of the Army, if you recall, in that case.

Mr. GREEN. Yes.

Senator HUMPHREY. And the use of the injunction is but the use of another weapon of Government instead of the Army; it is the use of

the court which compels men to work without an adjudication of their differences or grievances; is that not correct?

Mr. GREEN. That is right.

Senator HUMPHREY. One of the advocates of the Taft-Hartley Act says:

The plant will not have the wholehearted cooperation from its employees which is necessary for top-speed production.

Mr. GREEN. Top-speed production.

Senator HUMPHREY. What was the purpose of the objectives of the Taft-Hartley Act? Was it not to improve labor-management relationships?

Mr. GREEN. Well, that has been stated repeatedly.

Senator HUMPHREY. One of the authors of the act or at least one of the partners of the act says that you cannot expect to have—you will not have wholehearted cooperation of the employees, which is necessary for top-speed production when you have Government interference. There seems to be a good deal of contradictory evidence on the proposition.

Mr. GREEN. Who made that statement?

Senator HUMPHREY. It was the Senator from Minnesota, Eightieth Congress, Senator Ball.

Mr. GREEN. Senator Ball.

Senator HUMPHREY. He made that statement; yes. This was in 1941.

Mr. GREEN. Yes; I see.

Senator TAFT. There is really nothing inconsistent—excuse me, Senator. [Laughter.]

Senator HUMPHREY. I will just ask this question and then one more after this one: It seems to have been a desire on the part of the proponents of the Taft-Hartley Act to use the injunction proceedings, injunctive proceeding, to sort of stabilize things or at least to hold them in abeyance while working toward settlement. You are an experienced labor leader and experienced trade-unionist. Has the injunction worked toward the speedy resolution or the speedy settlement of labor disputes?

Mr. GREEN. It has not. I recall that in a dispute at Oak Ridge, Tenn., Oak Hill, Tenn., the atomic-energy plant, of course, which was an important plant, an injunction was issued, and it was in effect for 80 days.

Senator HUMPHREY. It was in effect for 80 days.

Mr. GREEN. Eighty days.

Senator HUMPHREY. Did you resolve the dispute during that time?

Mr. GREEN. There never was any settlement of the dispute during that entire 80 days. It remained unsettled. The 80-day period came up, and then without any injunction in effect at all whatever the employers and employees got together, and through collective bargaining worked out a settlement.

Senator HUMPHREY. All right, now, the one question that was asked you, and I think it was a very good thing that you gave us the answer this morning, because I was disturbed to hear Senator Donnell and Senator Morse speak as they did speak on the floor of the Senate in reference to a statement which supposedly emanated from the American Federation of Labor about placing legislators on the A. F. of L.

pay roll. I hope that we will have one of the Senators who will insert a reply into the Congressional Record or reply to that statement on the floor so that we will have a complete record.

Mr. GREEN. I hope so, myself.

Senator HUMPHREY. I shall personally see that it is done.

Mr. GREEN. Thank you.

Senator DONNELL. I wish you would include the further examination of Mr. Green on that same subject.

Senator HUMPHREY. I will be very glad to do that. We will take all that Mr. Green has to say on that subject. I personally would be opposed to it, and I want you to know that.

Mr. GREEN. Yes.

Senator HUMPHREY. I feel that it would be a very bad precedent.

I did hear Senator Morse, however, say that he had asked on the floor of the Senate that every legislator divulge the sources of his income.

Mr. GREEN. Yes.

Senator HUMPHREY. Have you ever heard of any persons representing corporations who were ever elected to a legislature?

Mr. GREEN. Well, I cannot name any at the moment.

Senator HUMPHREY. I can. [Laughter.] I mean, who have as their clients—

Mr. GREEN. It has been my impression that there have been a good many representatives of corporations in Congress, in the Congress of the United States.

Senator HUMPHREY. Well, all of us have to have a means of income. I think that is perfectly true.

Senator GREEN. Yes; that is true.

Senator HUMPHREY. Do you think there would be any difference, for example, if the American Federation of Labor put a man on its pay roll, let us say, as an organizer, after he was elected to the legislature, as compared to a man—I am talking about the legislature now; we are not talking about the honorable body of the United States Congress—you think there would be any difference between that and having a man who was elected to the legislature who, let us say, was an attorney for a public utility?

Mr. GREEN. Well, I think that the comparison would be about the same. I do not see where there would be any difference.

Senator HUMPHREY. But it is amusing, is it not, that one never feels, let us say, that a professional man who may be a counsel or adviser to a large public utility, is as suspect or looked upon with suspicion, because he may have his clients out there on the side where he has to earn his income, but if he were made an organizer, that would be bad?

Mr. GREEN. Yes; it would be bad.

Senator HUMPHREY. Yes, sir; it would be very bad. [Laughter.]

I have found out, and I once made this statement to the United States Conference of Mayors, that every public official ought to attend one labor convention a year, as a sort of antidote, because, and I will tell you why, because we are all wine and dined in the other places. Any man who is in public life—I should put my quip in here about the so-called fast life in Washington; I have not had a chance to enjoy it as yet, but I hear a great deal about it, that everyone is appar-

ently taken up to the heights at the banquet table in the better, so-called, structures of society, and no one seems to feel very badly about that; and I am of the opinion that some of us are like Pavlov's dog, we have some conditioned reflexes that we do not need to be on pay rolls or anything else. We are just conditioned by some of the environments in which we find ourselves situated from time to time.

Well, I will conclude what I have to say by asking you whether or not you approve of S. 249, which is known as the Thomas bill?

Mr. GREEN. Oh, yes.

Senator HUMPHREY. You do approve it?

Mr. GREEN. I made it clear in my statement this morning that the executive council gave thorough consideration to all sections, and after doing so approved the bill as it is, and hope and trust that it will be passed by the Senate of the United States with the changes I submitted.

Senator HUMPHREY. Do you think it will promote labor-management peace in this country?

Mr. GREEN. I think it will. It will go a long way toward promoting labor-management peace; and we want our action supporting this measure interpreted as meaning when we approve, say, your jurisdictional settlement program, your secondary boycott program, and dealing with the emergency program, it is evidence of the desire to go a long way as far as it can to protect its own interest and, at the same time, to serve the public interests as we should do. That is the basis of it.

Senator HUMPHREY. I surely appreciate your testimony, and I hope that in due time we will be able to get the full picture of the circumstances in which labor-management relationships are conducted, and from which legislation is derived.

Mr. GREEN. I hope so.

Senator HUMPHREY. And every witness from here on out, Mr. Green, who comes here, I am going to ask whether or not he supports farm programs, as you do.

Mr. GREEN. Yes.

Senator HUMPHREY. Whether or not the witness supports means of controlling the cost of living, because those things are important. I have had people on the witness stand tell me that profits have nothing to do with labor-management relationships. You are not of that mind, are you? Are you of the mind that profits have nothing to do with labor-management relationships?

Mr. GREEN. We know that it has much to do with labor relations.

Senator HUMPHREY. Yet you and I both want to see business make a profit.

Mr. GREEN. Yes; a decent, honest, fair profit, a right profit; and we want management, ownership and management, to be protected, guarded, and the right to manage property vested in the owners, in management, without interference from government, if you please, or from individuals; and that has been one of the basic tenets of our trade-union movement, and that is what we will not consent or approve that any union shall interfere in the management of property.

Senator HUMPHREY. That is all, Mr. Chairman.

The CHAIRMAN. Senator Murray.

Senator MURRAY. No; I have read your complete statement, Mr. Green, and listened to the cross-examination during the afternoon

and I want to congratulate you on the very fine statement you have given us, and the testimony you have given us here today.

Mr. GREEN. Thank you, Senator.

The CHAIRMAN. Senator Pepper asks that the record show that he is in Banking and Currency Committee this afternoon.

Senator Taft.

Senator TAFT. Now that we are back to S. 249, Mr. Green, we might discuss a little longer the bill before the committee.

As far as that part of the bill which deals with the Wagner Act, it restores the Wagner Act just as it was, does it not, from the time that it was enacted in 1935?

Mr. GREEN. It is my understanding that it does.

Senator TAFT. Except for increasing the numbers of members of the Board.

Mr. GREEN. Yes.

Senator TAFT. All those sections are restored.

Mr. GREEN. Yes; but with the amendments which are included in the new bill.

Senator TAFT. Yes; there are some additions in that part of the bill also—that is, the secondary boycott provisions and unfair labor practice on jurisdictional strikes, I think.

Mr. GREEN. Yes.

Senator TAFT. In 1939 you testified before this committee. I think I was a member of the committee and I think the chairman was the chairman of the committee, if I remember correctly.

The CHAIRMAN. I will never forget it.

Senator TAFT. At that time, didn't you yourself propose a long series of amendments to the Wagner Act and insist that they should be adopted by Congress?

Mr. GREEN. I think we did. I think we did, yes. Some, I do not know; I do not recall just how many, Senator.

Senator TAFT. You read to the Board a series of amendments, nine specific recommendations. I do not know whether they embodied the amendments of the executive committee.

One is:

The unit rule may be changed to conform to that which is in the Railway Labor Act, so that it will be obligatory on the Board to grant a craft or class the right to select its bargaining representative by a majority vote.

As a matter of fact, the Taft-Hartley bill did something on that line; did it not?

Mr. GREEN. It tried to.

Senator TAFT. It embodied a provision which was intended to protect craft units, unions, to a greater extent than they were protected in the Wagner Act.

Mr. GREEN. It tried to do it, but the National Labor Relations Board destroyed it.

Senator TAFT. You think they have destroyed it completely?

Mr. GREEN. Completely.

Senator TAFT. Have they not had to set up quite a few craft units since then?

Mr. GREEN. No, one——

Senator TAFT. I have not got the report of the committee. I did not have that question up——

Mr. GREEN. Let me explain, if you please. A bricklayer's local union at a plant, I think in Detroit or some city like that—Cleveland; that is it, Cleveland—made application to the Board for certification as collective bargaining agent for the bricklayers of that local, and an election was held, and the bricklayers voted unanimously to petition to be designated as collective bargaining agent.

The matter went before the Board for certification. The Board rejected it, stating that they were not under obligations to grant it, and that in their opinion it would be unwise to do it.

Senator TAFT. Of course, we did not absolutely require them to do it, but we indicated, certainly very clearly in section 9 (c) (2)—

Mr. GREEN. Yes, the bookbinders of New York City made a similar application, a local of the bookbinders, and the Board rejected that, stated that they were under no obligations because of the Taft-Hartley law. So there has not been any.

Senator TAFT. Do you still think there should be?

Mr. GREEN. I beg your pardon?

Senator TAFT. Do you still think there should be such an amendment?

Mr. GREEN. Well, the membership of the American Federation of Labor prefers such an arrangement as that. I might say to you, Senator, similar to the provision in the New York Act, I think that was offered in your committee as an amendment to the Taft-Hartley law. It has worked well in New York. It is in effect in New York. No change has been made; no protest has ever been made against it.

Senator TAFT. This is the provision of the Taft-Hartley law, 9 (b) (2):

The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof: *Provided*, That the Board shall not decide that any craft unit is inappropriate for such purposes on the ground that a different unit has been established by a prior board determination, unless a majority of the employees in the proposed craft unit vote against separate representation.

Now, my recollection is, at the hearings 2 years ago it was testified that the Board had proceeded in this prejudiced way which you objected to in 1939 and refused craft units in many cases and set up other units, and after that the Board was much more reasonable, but still relied on what had been done previously.

The purpose of this provision was to bring about a condition where the Board could not say, "Because we did that back in 1938 we have got to do it now," and you say the Board has not acted in those cases at all?

Mr. GREEN. Never: no. We have never had any designated a collective bargaining agent.

Senator TAFT. I call your attention to a preliminary report, the *Harnishfeger* case (75 N. L. R. B., No. 74):

The Pattern Makers League of North America, A. F. of L., sought a separate unit for the employees engaged in this trade. The United Steel Workers of America, CIO, had represented the plant-wide unit for approximately 9 years as the result of a Board finding of majority status. The Board therefore directed an election to be held among the Pattern Makers—

and set up a separate pattern makers' union, so it is true that under the Taft-Hartley law a craft unit was set up in this case.

Mr. GREEN. The pattern makers' organization has maintained their identity all the time even before the Wagner Act was passed, during the time the Wagner Act was in effect and also during the period when the Taft-Hartley law has been in effect.

Senator TAFT. My point is, under the Taft-Hartley law, and because of it, the Pattern Makers became the bargaining representatives themselves and were no longer required to be represented by the United Steel Workers.

Mr. GREEN. I think you are wrong on that, when you say because of the Taft-Hartley law. They have been represented because of the special skill and training.

Senator TAFT. Mr. Green, I wish you would examine this. I do not think there is the slightest question about the facts.

Mr. GREEN. I do know that the Board rejected the application of the Bricklayers organization from Cleveland, Ohio, who petitioned to be certified as a collective-bargaining agent for the craft.

Senator TAFT. I call your attention to another case in which the Taft-Hartley Act set up a separate craft unit, the National Container Corp. case, where the IAM sought to represent the machine-shop employees of the company, a manufacturer of kraft-paper containers. The intervening union, the Pulp, Sulphite and Paper Mill Workers, A. F. of L. had represented the plant-wide unit since 1941. The Board noted, however, that the machine-shop employees had special skills, and they stated that if the machine-shop employees selected the IAM to represent them, "they will be taken to have indicated their desire to constitute a separate unit."

Is not that another case where this provision of the Taft-Hartley Act enabled the craft unit to obtain separate representation?

Mr. GREEN. I will have to go into that, myself, Senator. Of course, it is the American Federation of Labor's procedure to call upon everybody—employers, legislators, and others—to represent craft units, and to afford to them the right to representation.

Now, we sought to have that incorporated both in the Taft-Hartley law and in the Wagner Act when the Wagner Act was passed. Now, our experience, however, since the Taft-Hartley law was passed has been very unsatisfactory. I cannot understand just the basis for those except as I have reported to you on the Pattern Makers.

Senator TAFT. No. 2, you recommended the power of the Board to invalidate contracts must be definitely curtailed.

3. Every known interested party should be served with due process and be afforded an opportunity to appear in any case.

4. Intervention by interested parties should be made a matter of right and not a matter of discretion.

5. Definite qualifications should be set forth in respect to examiners. A number are incompetent and unfit to serve in that capacity.

6. Classification responding the powers of the issuance of subpoenas if necessary. Liberalizing of the rule in that respect should be provided.

7. The secrecy of the files must be lifted to the extent that all persons must have an opportunity to examine a record that contains material on which decisions are made. The idea of keeping information and material in a secret file and then utilizing it in other evidence smacks of star-chamber proceedings.

In the Taft-Hartley law we passed a provision which requires the Board not to hear from prejudiced persons and to abide generally by the rules of evidence. Is not that substantially what you were asking for in 1939?

Mr. GREEN. Well, of course, we have always asked for those rights anywhere and everywhere.

Senator TAFT. Mr. Green, you at that time claimed, did you not, that the Board was grossly prejudiced against the A. F. of L., and that they were able under the law to bring that prejudice into full effect in their decisions?

Mr. GREEN. The Board was absolutely prejudiced against the American Federation of Labor. We stated that many, many times.

Senator TAFT. I quote from your testimony before the committee on Monday, May 1, 1939, page 631:

We contend that its decisions are not fair; that the Board's approach was unjudicial, and that its administration was biased. We say that when the division in the labor movement came about the Board devised its rules and decrees to give support to unions of our rivals to our great injury. We contend that even where a case did not present an issue between claimed varying philosophies—that is, even in cases where the American Federation of Labor was organizing on the same industrial, plant, or group basis as was its rival—that the Board so devised its procedure and decrees as to further the interests of our rivals. We do not think that any impartial person can look into the record of this Board's decisions and not be convinced that they are vigorous proponents of the cause of a dual movement.

Mr. GREEN. That is right.

Senator TAFT. Those are your words?

Mr. GREEN. Against the biased partial attitude of the Board as then constituted.

Senator TAFT. But, of course, the Board was able to do these things under the law which you now wish to have restored.

Mr. GREEN. Well, they can show bias even under your law.

Senator TAFT. Bias under any law, of course, but do you not think it would be wise if we reenacted this law to put in protection that will hold that bias down just as far as possible?

Mr. GREEN. Yes, indeed; I agree with you on that. That is proper.

Senator TAFT. I might read a little further from page 638:

As before stated, one of the A. F. of L.'s most serious complaints against the Board is its distortion of language employed in the act in deciding cases. Harmful and unlawful precedents have been established in which A. F. of L. contracts and elections were invalidated. The use of the word "interfere" in section 8 (1) of the present act probably has been the one most prolific source of Board abuse. I mean the interpretation which the Board has put upon the Board. The Board has run rampant in its interpretation of this word.

Normal relations between employer and employee, any spirit of friendliness between an employer and an A. F. of L. affiliate, or any relationship between an employer and an employee which does not border almost on the hostile is forbidden.

And, of course, under this act that is now being restored, a Board could do just exactly the same thing. I take it you do not think they would do it to the A. F. of L.; is that it?

Mr. GREEN. Senator, it is difficult for me to arrive at a conclusion because I have learned so much. I do not know what this Board will do. It has done some things that I do not like.

Senator TAFT. Mr. Green, again at page 651, you say:

The manner in which the Board has invalidated contracts, a power whose very existence, as you have seen in the passage I have just read, has been doubted by

the Supreme Court, is particularly illuminating in the Serrick case, decided by the Board in the last week in July 1938. In order to destroy an A. F. of L. craft union and deliver it to the CIO and to invalidate any A. F. of L. contract the Board went out of its way, flouted several other provisions of the act, disregarded its own precedents, and ignored elementary tenets of justice and fair play.

Mr. GREEN. That is right.

Senator TAFT. That was your opinion of that Board. You want to have the act restored under which a Board can do that kind of thing, if not to the A. F. of L., to someone else? Is that your position today?

Mr. GREEN. We think, Senator, that it will be a long time before the President of the United States will appoint a Board such as that one was.

Senator TAFT. Well, I hope so. On this question of the craft unit you said, page 668:

Permit me to give several illustrations in which the Board refused to give craft workers a vote on the question of whether or not they wanted to be constituted a separate unit. I have already mentioned the Serrick decision. In that case, as you will recall, the Board did not even discuss the possibility of putting the question of the unit to a vote, nor did the Board take any cognizance of the evidence presented or to the existence of an historic, well-defined craft as tool and die workers. The Board could not very well have denied the existence of this craft, for in many of its own decisions it had decided that the tool and die workers did constitute a separate unit. Instead, the Board delivered the group of tool and die workers to the CIO on the outrageous ground that the employer had allegedly favored them.

That was your testimony at that time?

Mr. GREEN. I was relating facts.

Senator TAFT. Finally, on this question, page 673, you stated:

Finally, on this question of the appropriate unit, I would like to show how the Board has gone to the other extreme in prescribing units and has designated as appropriate units consisting of large geographical areas including many employers, directly contrary to the language and the purpose of the act. By the precedent it has established in the Longshoremen's case, the Board has usurped power to destroy existing A. F. of L. unions in entire industries and to prevent effective unionization in the future. In the Longshoremen's case the Board held that all longshore employees of all employers on the entire Pacific coast constituted a proper bargaining unit. As a direct result of that decision, many A. F. of L. locals, some having a large majority of membership in entire cities and in entire ports, were denied the right to be bargained for by the American Federation of Labor and were compelled to be represented by the CIO.

That was your testimony?

Mr. GREEN. That was right.

Senator TAFT. Do you not think what the Taft-Hartley Act has done is comparatively mild to what the Board under the Wagner Act did prior to 1939?

Mr. GREEN. Those were decisions by a biased board. Your bill, the Taft-Hartley bill, has not corrected that, because I told you about the case of the Bricklayers just a few moments ago.

Senator TAFT. You think the whole thing is cured by the fact that the Board has been improved and you think there never will be another Board like the—

Mr. GREEN. I think there is some improvement on the Board. I do not know whether there will be another Board like that—I hope not.

Senator TAFT. Mr. Green, I remember that you were asked this question, the same thing: Why not change the Board? Why amend the act? You were asked that question at that time. May I read what you said then?

Mr. GREEN. Yes.

Senator TAFT. At page 636:

The question may be asked: If our principal objection is against the administration of the act and not the act itself, then why amend the act? Why not merely remove the present Board and substitute a new one? The answer is obvious. First, the interpretations placed on the existing act, which have been precedents, may be followed and adopted by a new Board. It is possible, though not likely, that a new Board may not observe the mandate included in a change of personnel and may continue to administer the act in the same objectionable manner as has the present Board. You know how we are tied to precedents.

Second, no Board is permanent: some future Board could pervert the present act even more than has the present Board.

Mr. GREEN. That is right.

Senator TAFT. That is what you said at that time.

It may be urged that some circuit courts and the Supreme Court of the United States have rendered certain decisions which have the effect of construing the act in conformity with some of our proposed amendments. Insofar as the amendments cover the same principles as are pronounced in these decisions our amendments are declaratory of the law. Let us write into the law the decisions of the courts. Even as to these it is essential that the law be put in clarified form so that there is stability of decisions, uniformity of interpretation by the courts, and a permanent guide for the Board.

That is the way at that time you answered the argument that you could reform the whole thing by changing the Board.

Mr. GREEN. We have never gotten it.

Senator TAFT. Is that what you think, a good many of these procedural amendments regarding the Board, the Taft-Hartley Act on that principle should necessarily be retained?

Mr. GREEN. I gathered the impression from your discussion that you are wondering whether we will suggest amendments to this S. 249 which will provide for the certification of a craft unit as a bargaining agent.

Senator TAFT. That particular question; yes.

Mr. GREEN. The probabilities are that that slight amendment will be submitted to the committee.

Senator TAFT. I was only suggesting your opinion is different now than it was.

Mr. GREEN. We have not changed our attitude on that.

Senator TAFT. You were always for the Wagner Act. I remember that at different places in your testimony.

Mr. GREEN. We are consistent on that, and we still feel the same way.

Senator TAFT. Do you remember what position you took at that time with regard to the exclusion of foremen? Do you remember the position you took at that time regarding the exclusion of foremen or the definition of foremen?

Mr. GREEN. I do not recall what I said at that time on that. Have you got it there?

Senator TAFT. Well, I have not been able to find it all. I have one piece here, but I am not sure—that is, I think you would have to explain more to me than I have been able to gather from what I have read:

All this amendment says is that those foremen with the right to hire and fire, and employees of a higher rank shall not participate in the selection of a representative and intends thereby that all others shall participate in the selection.

My recollection of what you were concerned with was that they should not count as foremen people below those who had the right to hire and fire, that there was no particular issue at the time as to this foremen-union question, but that you were in favor of excluding the hire-and-fire foremen from the ability to vote in ordinary units.

Mr. GREEN. I think I stated pretty positively that we did not think that the foreman, a man that is so close to the management as to exercise the right to hire and discharge, ought to be recognized as part of the local organization, but the supervisors and others who do not exercise that power, have no power of that kind, there is no reason why they should not be.

Senator TAFT. The Taft-Hartley law adopted your definition, I think, for all practical purposes. I do not think the definition includes as foremen anyone who does not have the power to hire and fire.

Mr. Green, on the question of the size of the A. F. of L., how many members have you?

Do you keep a roll of the number of members, union members?

Mr. GREEN. Yes. We based it on the per capita tax paid to the American Federation of Labor over a reasonable period of time. Some months there is a variation. Some months we do not get per capita tax on as many members as we do in other months.

Senator TAFT. Have you any records on all organizations, by any chance? Do you have any records on the total number of men in unions in the United States?

Mr. GREEN. On the total number?

Senator TAFT. Total number of unions of all kinds.

Mr. GREEN. No; I do not have those figures.

Senator TAFT. Can you give us the figures on the A. F. of L.? I would like to get all of them from say 1935 when the Wagner Act started.

Mr. GREEN. I have not got the figures, but in my opinion our figures are about 8,000,000.

Senator TAFT. About 8,000,000.

Are they larger or smaller than they were on January 1, 1947, 2 years ago?

Mr. GREEN. I think they are larger somewhat than they were.

Senator TAFT. Exactly how much?

Mr. GREEN. Well, I do not recall. I think we have come along from 6,000,000, 7,000,000, then 8,000,000.

Senator TAFT. Are you larger than the CIO, do you know?

Mr. GREEN. They give out no figures as to their membership. We have never been able to see their figures. Ours are made public and published regularly, periodically.

Senator TAFT. But the act has not resulted in a decrease in membership, I mean under the Taft-Hartley Act?

Mr. GREEN. In the American Federation of Labor?

Senator TAFT. Yes; the American Federation of Labor.

Mr. GREEN. No; I think we have organized in spite of the Taft-Hartley law with all its difficulties.

Senator TAFT. Can you tell us what are the annual expenditures, how big a concern is the American Federation of Labor in terms of dollars, annual expenditures?

Mr. GREEN. I could not give you the figures here, but I will supply you with a financial statement, Senator.

Senator TAFT. Yes; I would like to have that in the record, if you can supply it. It would be interesting. Have you any idea how much money you spent last year, for instance, what you collected in dues and spent.

Mr. GREEN. No, I could not tell you at the moment because I do not know whether it was 2 million, 5 million or 6 million.

Senator TAFT. You do not know whether it was 2 million, 5 million or 6 million? You are giving rather wide leeway, are you not?

Mr. GREEN. I do not want to make a wrong statement.

Senator TAFT. Well, can you get those figures for the record?

Mr. GREEN. Oh, yes.

Senator TAFT. Can you tell us how much you spent in advertising against the Taft-Hartley law? I remember you and I had a debate here about 2 years ago at the time the Taft-Hartley law was passed. Plans were then being made which you mentioned, but I have forgotten what they were.

Mr. GREEN. We spent a modest sum.

Senator TAFT. What was the modest sum?

Mr. GREEN. Those funds as I recall, were supplied outside of the income to the American Federation of Labor of per capita tax voluntarily given by the workers through labor's league.

Senator DONNELL. Labor's League for Political Education?

Senator TAFT. The advertising, you mean?

Mr. GREEN. Yes.

Senator TAFT. I do not take it that was brought about necessarily by the Taft-Hartley law because that only applied to actual election time.

Mr. GREEN. Election time, that is right.

Senator TAFT. But you have been able to contribute to Members of Congress and others, through the organization of a strictly political unit, collecting money for political purposes?

Mr. GREEN. That is Labor's League for Political Education. We got into the campaign. The Taft-Hartley law got us in and we spent some money and we beat some men.

Senator TAFT. Well, I understand that. Under the financial contribution section of the Taft-Hartley law, I want to know has that really interfered with your doing that in the proper way authorized by the law? You have gone right ahead, have you not?

Mr. GREEN. Our counsel advised us on that carefully step by step.

Senator TAFT. Do you see any reason why you should be able to use the dues of some members contributed for labor-union purposes to beat some political candidate that that member may be in favor of electing?

Mr. GREEN. We use no money that was paid in for administrative expenses of the American Federation of Labor by Labor's League for Political Education. The money was collected outside of that through voluntary contributions.

Senator TAFT. They were not what one gentleman testified, so-called voluntary contributions, were they?

Mr. GREEN. Voluntary contributions.

Senator TAFT. But then what is the basis for the objection to the Taft-Hartley law provision which prohibits the use of union money? What is the objection to that? Why not continue it?

Mr. GREEN. Because we see no reason why a part of that money could not be used for political purposes, for educational purposes, contributed as it is by the individual members.

Senator TAFT. Mr. Green, your various constituent units, of course, are also large concerns in themselves. We have, for instance, the printers, the ITU, who were here. They spent something like \$10,000,000 in a year.

Have you any idea what the total assets of all the constituent units of the A. F. of L. are, what the total income and expenditures per annum amounts to?

Mr. GREEN. I do not know what the total is. We have 107 national unions chartered by and in affiliation with the American Federation of Labor.

Senator TAFT. Those unions are in many cases very much larger organizations than the employers with whom they deal, are they not?

Mr. GREEN. Well, I do not know about that.

Senator TAFT. The ITU has testified that they dealt with thousands of independent employing printers, just the one union, one large union.

Also the machinists who were here yesterday, I think testified that they had contracts with thousands and thousands of separate employers expiring at different times. Is it not true that these unions are very much larger than most of the employers with whom they deal?

Mr. GREEN. You mean numerically?

Senator TAFT. Larger concerns, more assets, more money, more income.

Mr. GREEN. Oh, I do not think so.

Senator TAFT. More power, as far as that is concerned.

Mr. GREEN. I think there are very few employers that do not have more money than they have. Of course, the small employers employing a few men would have a smaller amount of money.

Senator TAFT. When the ITU, with a \$10,000,000 income a year, deals with a smaller employer whose whole plant may be worth a hundred or two hundred thousand dollars, certainly it is a much bigger and more powerful organization than that particular employer.

Mr. GREEN. That money is collected through assessment levied on the individual member. I forget the amount it is, and it is paid as weekly strike benefits to those printers in Chicago who have been on strike.

Senator TAFT. I understand that.

Mr. GREEN. One of the employers involved in that strike is the Chicago Tribune. I do not think that is a small concern.

Senator TAFT. Oh, I would say some of the employers are much bigger. I am only suggesting that there are 2,000,000 employers in the United States, and that the unions are very much larger than the great bulk of those employers. There are some larger employers that are perfectly able to protect themselves.

Mr. GREEN. That can only be determined by the analysis. I cannot express an opinion.

Senator TAFT. Now as to the effect of the Taft-Hartley Act, Mr. Green, I do not know whether you saw Secretary Tobin's figures to the effect that in the postwar period, 16 months from September 1945 to June 1947 there were 401 work stoppages affecting 351,000 workers and 7½ million man-days idle.

In what he designates as the Taft-Hartley period, from July to December, which was 18 months, there were only 259 stoppages, about 60 percent the number of stoppages, 140,000 workers involved, about 40 percent of the workers in the previous period, 2½ million man-days, about one-third.

Can you say that the Taft-Hartley Act promoted industrial contest in the face of those figures?

Mr. GREEN. Yes; in the face of those figures I would say "Yes," because there are certain economic conditions that you must take into account during periods in our national history, and there are periods when the economic forces in operation contribute toward the development of promotion of industrial peace.

Well, I do not know whether that occurred during the periods named in your statement there, Senator. I cannot tell about that, but I do know that in 1946 it was reported there were a number of strikes. We had a large number of strikes.

That was due probably to these changing economic conditions, rising prices, inflation and all those things.

When we got through with that period, there was a settling down. It seems like it moves in a circuitous way up and down and down and up and across, and so forth.

Senator TAFT. Now, Mr. Green, Senator Humphrey put in some figures. I hold here in my hand the Economic Indicators published in February by the Joint Committee on the Economic Report under Senator O'Mahoney's chairmanship, and I would like to put in the record, Mr. Chairman, the three sets of figures.

Senator HUMPHREY. What pages are those?

Senator TAFT. The first page is the cost of living increase beginning on page 2 including just the index, all items, beginning in 1939 and running down to December 1948.

Then I would like to put in the average hourly earnings on page 24, just those I think relating to manufacturing. The retail increase is slightly less.

Bituminous coal mining was a good deal more. Private building construction is about the same. The average hourly earnings in current dollars show an increase from 63.3 cents in 1939 to about \$1.25 in September 1947, the closest date to the time the Taft-Hartley Act went into effect, to \$1.378 in December 1948, the last figure in the record, showing also in terms of the 1947 dollars, which means real purchasing power, there was an increase from \$1.01 in 1939 to \$1.22 in 1945, \$1.21 in 1946, \$1.22 in 1947, an increase of about 20 percent in real wages.

Also on page 25 the figures relating to average weekly earnings from 1939 through 1948. That I will give to the reporter.

(The documents referred to are as follows:)

[1935-39=100]

Period:	All items ¹	Period:	All items ¹
1939 monthly average-----	99. 4	1948—January-----	168. 8
1941 monthly average-----	105. 2	February-----	167. 5
1942 monthly average-----	116. 5	March-----	166. 9
1943 monthly average-----	123. 6	April-----	169. 3
1944 monthly average-----	125. 5	May-----	170. 5
1945 monthly average-----	128. 4	June-----	171. 7
1946 monthly average-----	139. 3	July-----	173. 7
1947 monthly average-----	159. 2	August-----	174. 5
1948 monthly average-----	171. 2	September-----	174. 5
1947—November-----	164. 9	October-----	173. 6
December-----	167. 0	November-----	172. 2
		December-----	171. 4

¹ Also includes housefurnishings, fuel, electricity, refrigeration, and miscellaneous goods and services.

NOTE.—Prices are for moderate-income families in large cities.

Source: Department of Labor.

[Selected industries]

Period	Manufacturing		Period	Manufacturing	
	Current dollars	1947 dollars ²		Current dollars	1947 dollars ¹
1939 monthly average-----	\$0.633	\$1.014	1948—February-----	\$1.287	\$1.225
1941 monthly average-----	.729	1.105	March-----	1.289	1.231
1944 monthly average-----	1.019	1.252	April-----	1.292	1.217
1945 monthly average-----	1.023	1.224	May-----	1.301	1.216
1946 monthly average-----	1.084	1.210	June-----	1.316	1.222
1947 monthly average-----	1.221	1.221	July-----	1.332	1.222
1947—September-----	1.249	1.215	August-----	1.349	1.232
October-----	1.258	1.224	September-----	1.362	1.244
November-----	1.268	1.225	October-----	1.366	1.254
December-----	1.278	1.219	November-----	1.371	1.269
1948—January-----	1.285	1.213	December-----	1.378	1.281

¹ Covers only employees at the site of privately financed building projects.

² Current dollars divided by consumers' price index on the base 1947=100.

Source: Department of Labor.

[Selected industries]

Period	Manufacturing		Period	Manufacturing	
	Current dollars	1947 dollars ¹		Current dollars	1947 dollars ¹
1939 monthly average-----	\$23.86	\$38.24	1948—January-----	\$52.07	\$49.17
1941 monthly average-----	29.58	44.82	February-----	51.75	49.24
1944 monthly average-----	46.08	56.61	March-----	52.07	49.73
1945 monthly average-----	44.39	53.10	April-----	51.79	48.77
1946 monthly average-----	43.74	48.82	May-----	51.86	48.47
1947 monthly average-----	49.25	49.25	June-----	52.85	49.07
1947—September-----	50.47	49.10	July-----	52.95	48.58
October-----	51.05	49.66	August-----	54.05	49.36
November-----	51.29	49.56	September-----	54.18	49.48
December-----	52.69	50.28	October-----	54.50	50.05
			November-----	54.47	50.43
			December-----	55.01	51.12

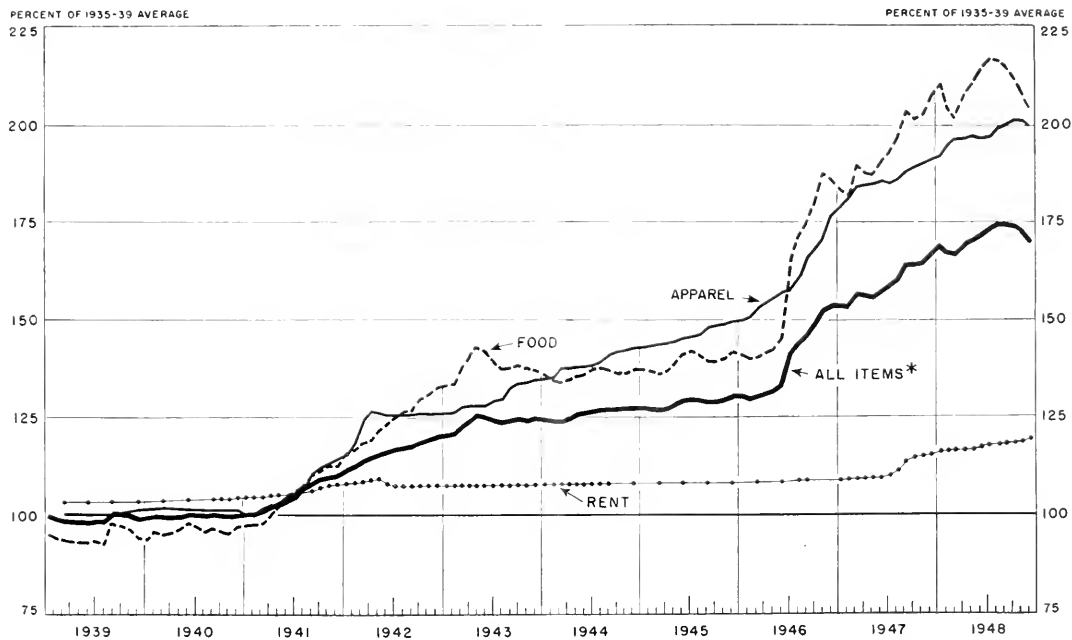
¹ Current dollars divided by consumers' price index on the base 1947=100.

Source: Department of Labor.

Senator TAFT. What I want to ask, Mr. Green, is this: The condition of the worker at the time the war ended, was he not considerably better off than he was when the war began, not that he was as well off as

CONSUMERS' PRICES

Consumers' prices in December were 2% below the September peak. Food prices accounted for most of the decline, while apparel prices dropped slightly. Rent continued upward.



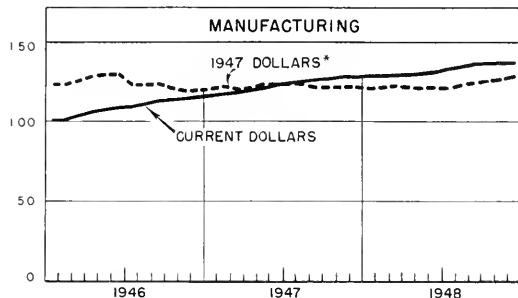
* ALSO INCLUDES HOUSEFURNISHINGS, FUEL, ELECTRICITY, ICE, AND MISCELLANEOUS GOODS AND SERVICES, NOT SHOWN ON CHART.
SOURCE: DEPARTMENT OF LABOR

COUNCIL OF ECONOMIC ADVISERS

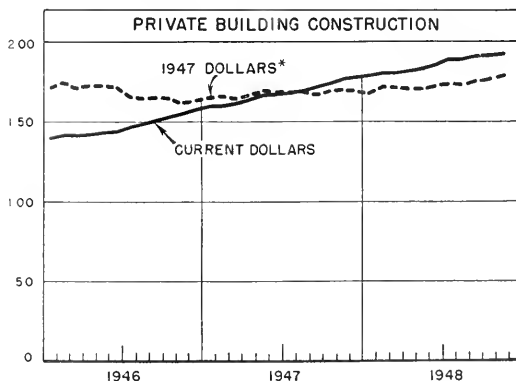
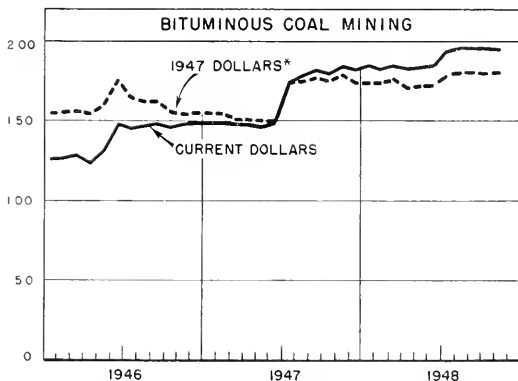
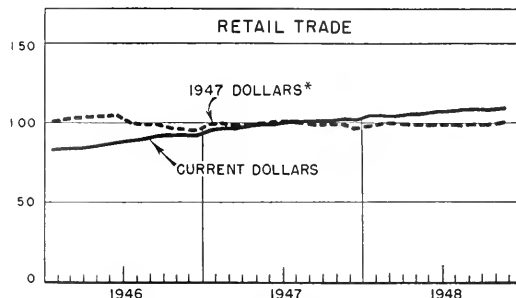
AVERAGE HOURLY EARNINGS

Hourly earnings continued to rise slightly in November except for bituminous coal mining. Preliminary data for December show a continuation of this movement in manufacturing industries.

DOLLARS PER HOUR



DOLLARS PER HOUR



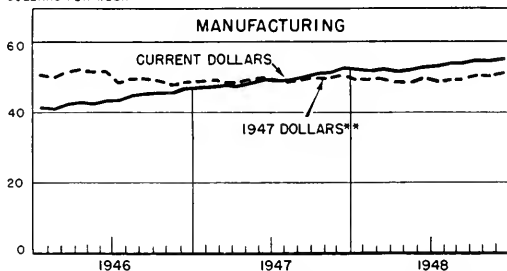
* CURRENT DOLLARS DIVIDED BY CONSUMERS' PRICE INDEX ON THE BASE 1947=100
SOURCE DEPARTMENT OF LABOR

COUNCIL OF ECONOMIC ADVISERS

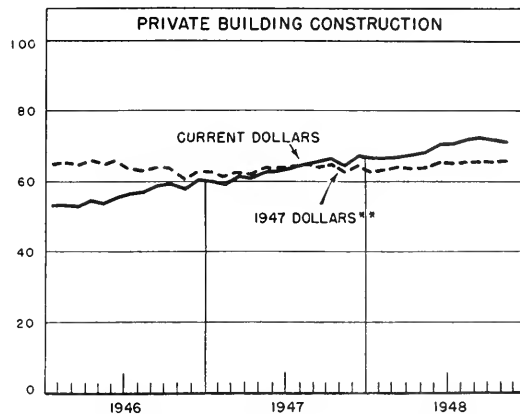
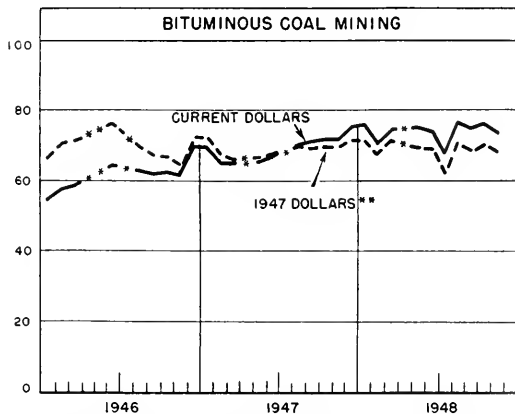
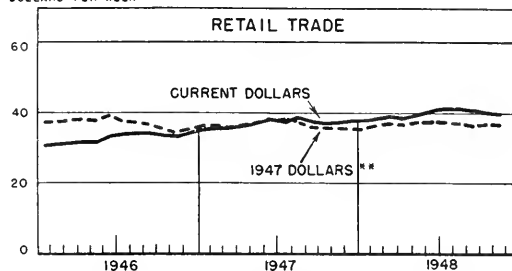
AVERAGE WEEKLY EARNINGS

The general decrease in average weekly earnings in November resulted from shorter hours of work. Preliminary data for December show that weekly earnings in manufacturing increased to a new high of about \$55.

DOLLARS PER WEEK



DOLLARS PER WEEK



* EARNINGS DATA DISTORTED DURING THESE MONTHS BECAUSE OF WORK STOPPAGES OR VACATIONS
SOURCE: DEPARTMENT OF LABOR

** CURRENT DOLLARS DIVIDED BY CONSUMER'S PRICE INDEX ON BASE OF 1947:100
COUNCIL OF ECONOMIC ADVISERS

he ought to be, because I hope he may go on increasing his standard, but is it not true that from the time the war began from the 1939-40 level which lasted for 4 or 5 years, I think, there was an increase in the rate of pay of about 115 percent while the cost of living was going up about 70 percent?

Mr. GREEN. Well, I think I can probably answer your statement and answer those figures by taking in a larger period of time. Since June 1946 the cost of living increased 29 percent.

Senator TAFT. To when?

Mr. GREEN. Twenty-nine percent.

Senator TAFT. To when?

Mr. GREEN. I beg your pardon?

Senator TAFT. To what period?

Mr. GREEN. Since June 1946 to the present time, and weekly earnings during that period increased 27 percent, so that the increase in the cost of living was 2 percent over what the weekly earnings were during that period.

Senator TAFT. But Mr. Green, you are dealing, I suppose, with weekly figures? Of course a man working 8 hours after the war is not going to get quite as much as he got when he worked 10 hours during the war, but also I suppose he did not want to work 10 hours, did not want to work the overtime.

Mr. GREEN. Well, there was not such a large percentage, I do not think, Senator. I do not know what it was, what the percentage was that worked overtime during the war. I do not know what the percentage was.

Senator TAFT. Well, let me take again these average weekly-earning figures, Mr. Green. They are the figures that I have.

In 1939 in terms of 1947 dollars the monthly average was \$38.24. It improved rapidly during the war to \$56 in 1944.

It fell off when the war came to an end, principally not because of any falling off in rates but a falling off in the number of hours worked to about \$49 in 1947, so that while the actual wages were somewhat less than they were during the war, they were at least 25 percent higher than they were when the war started; is that not a fact?

Mr. GREEN. Well, I think perhaps there was some improvement in our wages up to the time when the war started and during the war there was some increase in our weekly earnings.

Senator TAFT. Wages doubled during the war over the 1949 period.

Mr. GREEN. Doubled?

Senator TAFT. Doubled.

Mr. GREEN. I have not the figures. I do not know.

Senator TAFT. \$23 to \$46; \$23 a week to \$46 a week.

Senator HUMPHREY. Senator, would you stand for correction of your figures?

Senator TAFT. Yes.

Senator HUMPHREY. You said 25-percent increase.

Senator TAFT. I am talking about real wages.

Senator HUMPHREY. Yes; real wages, 1947 dollars.

Senator TAFT. From \$38.24 in 1939 to \$49 in September 1947. Well, it is \$48.82, about \$49 in 1946.

Senator HUMPHREY. The war started in 1941.

Senator TAFT. The 1939-40 rates are about the same and had been about the same for about 3 or 4 years. The prewar rate is the 1939 rate of \$38.

Senator HUMPHREY. The 1941 rate was \$44, however.

Senator TAFT. Yes; that was an average, but it was less than that at the beginning of the year, and the 1939-40 prewar rate was about what it was in 1939.

My only point is, Mr. Green, as a matter of fact, when we got through the war, the A. F. of L. took a very reasonable attitude, as I remember it. They negotiated 5-percent, 10-percent, 25-percent increases, according to the particular conditions of the particular industry, and it was only when the big demand for a 30-percent increase from the CIO unions came in that the Government changed its policy and finally it approved a general 18-cent increase, did it not? That was after the war, as I recollect; is that not correct?

Mr. GREEN. I do not recall those details. In June 1946 the workers worked 40 hours, Senator, and now they are working 39.9, so there is not much difference. The cost of living since June 1946 increased 29 percent, and the weekly earnings increased only 27 percent.

Senator TAFT. Well, I quite agree that there was a slight falling off after the war, but, after all, the standard of living during the war was maintained by the Government spending \$50,000,000,000 a year more than they were taking in. That was an exceptionally extraordinary condition, and also, of course, the workers did not have the things they wanted to buy.

Well, in any event, Mr. Green, since the Taft-Hartley Act has gone into effect, there has been a steady increase in average weekly earnings, has there not?

Mr. GREEN. I am not sure, but then the Taft-Hartley law would not be responsible for that, would it?

Senator TAFT. No; but it has been charged with everything else, and I just wanted to show that there has not been any stoppage in the steady increase.

In September 1947 weekly earnings, this is take-home weekly earnings, has increased steadily from \$50.47 until in December 1948 it is \$55.01, and that has been a pretty fairly consistent increase, mostly about July 1 was the biggest step last year.

Senator PEPPER. Will the Senator yield?

Senator TAFT. Just for a question.

Senator PEPPER. Is that in terms of the '39 dollar or—

Senator TAFT. No; that is in terms of real dollars. In terms of the '47 dollar, the increase from \$49.10 when the Taft-Hartley law started to \$51.12 in December of this year.

In other words, the increase in wages has been bigger than the increase in prices since the Taft-Hartley law came into effect. I do not claim credit for that.

Senator HUMPHREY. Let us go over that again.

Senator PEPPER. Excuse me just a minute. The figures I have show that in terms of 1939 dollars gross average weekly earnings of production workers in all manufacturing in 1939 dollars, the average in 1937 is \$30.75, the first 9 months of 1948 it is \$30.62, and in 1948 from January 30.66 to September of 1948, \$30.96; so I do not find that degree of increase.

Senator TAFT. Well, these figures will speak for themselves, and they were prepared by the President's Board of Economic Advisers. I have put them into the record, so we can argue as you wish.

My last point was that under the Taft-Hartley Act labor has not been enslaved. They have gotten higher and higher wages each month.

Mr. GREEN. The slavery has nothing to do with high wages. The slavery is the injunction which says, "I make you do this. Go and do it or go to jail."

Now that is slavery when you are compelled to do it.

Senator TAFT. Summing up—and I will come to the other question—there have been fewer strikes, there has been a steady increase in wages more than the increase in prices since the Taft-Hartley Act went into effect.

Union membership has increased. My recollection is the other day Mr. Kaiser specified before the Joint Committee on the Economic Report there has been an increase in the productivity of individual workmen. Do you think if there had been any great stress between employer and employee, it would have tended to decrease the productivity of individual workers?

Mr. GREEN. I have not any concrete evidence of it, but it is my opinion that it serves to bring that about, and will bring it about, a decrease in the individual and collective productivity of wage earners of the Nation, and it will show that after all our great productive machinery does not measure up to what it was during the war.

Senator TAFT. I do not claim that the individual productivity of the worker has decreased during the past 2 years, do you?

Mr. GREEN. No.

Senator TAFT. Mr. Kaiser testified that it increased. Would you think that he was probably right?

Mr. GREEN. The point I want to make is this: During the war we produced as never before under the closed-shop agreements, and the right to negotiate closed-shop agreements, to develop the best that the union could give during that period.

Now we have not excelled that since that time. The Taft-Hartley law is not responsible for any increase in productivity.

Senator TAFT. Well, I do not say—

Mr. GREEN. You are not claiming that, are you?

Senator TAFT. I am not arguing that you can prove that. Nobody can prove that. I am only trying to prove, if I can, that the productivity has increased in the past 2 years in spite of the Taft-Hartley Act. I do not know why. Has it not increased?

Mr. GREEN. Why would you want to strike out a condition that developed productivity to the highest extent during the war now?

Senator TAFT. The figures, Mr. Green, do not show that.

Mr. GREEN. The figures do show it.

Senator TAFT. The total productivity was greater, but there is no evidence—in fact, your testimony is that the individual productivity of the individual workman during the war has always during war, as far as that is concerned, been somewhat less.

Mr. GREEN. We have never measured up to as high a standard of productivity in all the history of the world as we did during the war period.

Senator TAFT. You are talking about the total production?

Mr. GREEN. Total production, that is what I am talking about.

Senator TAFT. The productivity?

Mr. GREEN. They did that under the right to negotiate agreements free and voluntarily between employer and employee.

Now, you say they cannot do that any more.

Senator TAFT. Now, Mr. Green, we come to those questions, because that is the main thing, as to what amendments we should make here. First of all, I take it that most of your claim, you stated that collective bargaining had been destroyed and that individual bargaining had been restored. What is there in the Taft-Hartley Act that in any way restores individual bargaining?

Mr. GREEN. Well, it does in this way. Take the case, for instance, where a strike is in effect. A collective-bargaining agreement is in effect. The employer breaks a strike by some method. He brings in strikebreakers.

An election is held by the strikebreakers, and those who are parties to the collective-bargaining agreement are out. Now the dealing with the strikebreakers is by individuals, as a rule, rather than collectively.

Senator TAFT. Mr. Green, that was true always whenever there was a strike and the employer employed strikebreakers or employed people to take the jobs of the strikers.

Mr. GREEN. There was no law that conferred on an employer authority to deal with strikebreakers and put his former employees out.

Senator TAFT. He did not need any authority. The Supreme Court said under the Wagner Act he could employ people to take the place of strikers, and that when they were employed they were permanent employees; that is, if they came from the neighborhood, and so forth, under the Wagner Act.

Mr. GREEN. There was no statute, any provision that could be interpreted as meaning that the employee would lose his job because he struck, and strikebreakers were employed.

Senator TAFT. What the Supreme Court held was that under the Wagner Act—

Mr. GREEN. That is a serious thing, a very serious thing.

Senator TAFT. Under the Wagner Act the Supreme Court held that an employer could employ somebody, and, of course, obviously he could, if the union is on strike.

Mr. GREEN. We never got that under the Wagner Act, and we never got it from any board until a few days ago or a few weeks ago or a few months ago, when the Board decided that.

Senator TAFT. A few months ago, 2 months ago.

Mr. GREEN. Maybe 2 months ago; I do not know.

Senator TAFT. The Supreme Court case was the Mackay Radio case, and the Board subsequently followed that by permitting those people who were employed by the employer to vote. Now, as far as the question—

Mr. GREEN. About 4 months ago, Senator, it was.

Senator TAFT. As far as the question of the strikers being forbidden to vote by this law is concerned, I think that was a mistake. No one is proposing to put it back, but the general question is this: When actually the union members have steadily increased under the Taft-Hartley law, where is there any discouragement of collective bargaining or restoration of individual bargaining? That is what I cannot understand. I cannot understand the basic claim that you make.

Mr. GREEN. The facts are, Senator, that it has had a bad psychological effect, the state of mind, the willingness of the worker to give his best, to develop his skill to the highest point and serve.

It is because he resents this piece of legislation that subjects him to a second class in our country. No employer is subject to certain provisions that are in this act. It is just labor; and why is labor selected? As days go by, that effect will become pronounced.

Senator TAFT. There are very things in which there is any difference, Mr. Green, and, as far as I am concerned, I would like to restore them to complete equality. Some things got in that I would not have put in, in that way.

Take the Communist oath. That is against labor unions and not against employers. I think it ought to be against employers, if it is retained, officers of employing companies. If it is retained at all, I think that ought to be put in, and certainly I would restore that because certainly the whole basis of this thing was to try to restore equality, and I think it was substantially done, except, of course, the situation is different in some cases.

The kind of unfair labor practice on the part of employees is not absolutely the same as on the part of labor unions. There is some difference.

Mr. Green, on this question of the closed shop, you stated the case as to why it should be retained. I will recite a couple of instances of the things we had to deal with.

The testimony is that in the Alaska shipping industry where they have a closed shop, have a hiring hall, that the way in which that was conducted was such that discipline on the ships was absolutely destroyed. A man was discharged for insubordination, and a week later he was sent right back by the hiring hall to the same ship.

The Governor of Alaska told me in person, he said that unless something is done about the hiring hall, Alaska cannot go on living at all because:

We are dependent on that shipping, and it is so destroyed there is no longer any schedule, there is no time, there is no discipline on the ships, no shipper ever gets anywhere until after 4 o'clock when they get double time for unloading. The expense of shipping is such that we cannot go on living unless something is done.

Now, would you say that if you permit the closed-shop there ought to be any regulation of the hiring hall, or do you think that simply should be left to the union to run?

Mr. GREEN. Senator, there are always two sides to the story. You related the one side.

Senator TAFT. I related the side which I got from the Governor of Alaska, who is in every way friendly to labor as far as I know.

Mr. GREEN. I have high regards for the Governor of Alaska, but, as I say, I know there is another side to that story, because in the San Francisco area where they have the hiring halls and our seafarers' union—

Senator TAFT. I think he was talking more about the CIO. That is all right; go ahead.

Mr. GREEN. You were talking about Alaska. I am talking about the San Francisco area. I do not know so much about Alaska. I do know down in the San Francisco area there is the finest relationship

there between the owners of the ships and the seamen. Now, your law prevents them from putting the hiring hall into effect.

Senator TAFT. No, Mr. Green, it does not forbid a hiring hall with some joint control.

Mr. GREEN. Yes; but it is a closed-shop arrangement.

Senator TAFT. No; it is not a closed-shop arrangement. You see, a hiring hall is not necessarily a closed shop if there is no discrimination in employing the people in the hiring hall.

Mr. GREEN. Senator, I want you to be informed on this. It is just the same as the hiring arrangement on the part of the printers and the owners of those newspapers in Chicago. It is the same sort of a set-up.

The hiring for the newspapers is done through a committee representing the union. The hiring of the seamen is done in the same way. The only difference is one is called a hiring hall. That is where the idle sailors gather, in the hiring hall.

Senator TAFT. My point is you can have a good hiring hall or you can have a bad hiring hall. What I am asking you is: You say this is not true about Alaska?

Mr. GREEN. I do not know.

Senator TAFT. I think it is.

Mr. GREEN. I do not know.

Senator TAFT. There is certainly such a danger. Do you think if you abolish the closed shop there ought to be some regulation of the hiring hall, some regulation by which even the printers could not impose an excessively low number of apprentices on the industry?

Mr. GREEN. Senator, I could not answer that question unless I had the other side of the story, but I want to be fair. I do not know what I would say if I got the other side of the story; but in this hiring hall, in the arrangement there is evidence that the employer does not want anything else. He is carrying it out now in spite of your Taft-Hartley law.

Senator TAFT. I have not found an employer who approved.

Mr. GREEN. He is doing it.

Senator TAFT. I have not found an employer who approved of unrestrained union hiring halls. They have to agree to it, maybe.

We have one case testified to, I think 2 years ago, of a newspaper distributor's union in Long Island to which no new member had been admitted for 10 years except sons of members. Do you think that kind of an arrangement is a good one?

Mr. GREEN. Senator, do you expect to lick all those little things by legislation?

Senator TAFT. No; but it is an example of discrimination.

Mr. GREEN. Why do you emphasize all these little faults that you find and never refer to anything that we have done in a wonderful way?

Senator TAFT. Mr. Green, Mr. Humphrey has done that for me. I agree with all he says about the magnificent work labor has done, but we are considering a particular bill, particular abuses. As I understand it then you want to restore the closed shop without any regulation or restraint whatever?

Mr. GREEN. What we want is the right of the employer and employee to sit around the table and negotiate an agreement acceptable to both,

and have no law saying that "You must not and cannot do this; otherwise, you will be criminally punished."

Now, that is what we want to do.

Senator TAFT. In that you are referring to the closed shop, is that it?

Mr. GREEN. Yes.

Senator TAFT. That is what you are really most strenuously opposed to.

Mr. GREEN. Freedom. If they want to negotiate a closed shop, let them negotiate it.

Senator TAFT. What about the poor fellow who wants to get a job? Supposing you go ahead now and this closed-shop business extends throughout the United States until every union has a closed shop. What about the fellow who wants to get a job and finds the doors closed to him, in many places unreasonably; in many others he might be treated entirely fairly?

Mr. GREEN. That is an impossible situation. There will never be a time when that takes place.

Senator TAFT. Why not?

Mr. GREEN. The fellow that does not want to meet the requirements of the 100 workers in a plant can go elsewhere to get a job. He has freedom to do that.

Senator TAFT. He has not freedom to get in the place at all if you have got a hiring hall, because it can be run with complete favoritism for particular people.

Mr. GREEN. Yes.

Senator TAFT. A Communist union can run it with complete favoritism.

Mr. GREEN. A man cannot practice law in California unless he joins the union.

Senator TAFT. I do not approve of that.

Mr. GREEN. That is the law.

Senator TAFT. I would be glad to abolish it.

Senator NEELY. Senator Taft, may I ask you one question?

Senator TAFT. Just one.

Senator NEELY. Do you not have what is called the integrated bar in Ohio?

Senator TAFT. No; I have always opposed it, Senator. I always thought it was a closed shop myself and was never in favor of it.

Mr. GREEN. Pardon me, Senator. Your law does not place any restraint upon employers to bargain for the sale of their products under terms and conditions acceptable to the buyer. He has freedom of action.

Senator TAFT. It imposes so many restrictions on him that—

Mr. GREEN. Well, I am talking about this freedom. Here is a worker who has his labor to sell.

Senator TAFT. Here is a druggist and he cannot sell this thing for what he wants to sell it for.

Mr. GREEN. His services, he has his services to sell.

Senator TAFT. Under the act he has got to sell it for a figure higher than perhaps anybody will pay.

Mr. GREEN. He wants to sell it under conditions which the employer will accept, and you say "No, he cannot do that. That is criminal. That is not right. It is not a right principle."

Senator TAFT. We have another case here. You take this union-shop provision. We have this case testified to, a case where a man saw a shop steward and a foreman get into a fight and the steward knocked the foreman down. You perhaps remember it. It happened 2 years ago. He was subpoenaed in court to testify, and he testified that the shop steward hit the foreman first, and the steward was convicted of assault and battery. This fellow was then tried for conduct unbecoming a union officer, because he testified to what he saw, and was expelled from the union, and he lost his job.

Now, do you not think if you are going to permit a union shop to go without restriction, that you ought to have some regulation of the firing procedure so that a man could appeal to the Board if he is fired unreasonably by the union and loses his job there.

Mr. GREEN. Well, he could have sued under the law, Senator. These incidental—

Senator TAFT. No, he could not have sued. What law?

Mr. GREEN. The State courts.

Senator TAFT. Oh, no. If the rules of the union said that you could fire a man for conduct unbecoming a union member, why that is what he agreed to when he went in. He is fired. There is no remedy at law, because—if the procedure is wrong, I agree. I mean, if you do not give him a hearing, then the courts will interfere, but the courts will not say that some of those rules for the exclusion of men are unreasonable.

Mr. THATCHER. Yes; they do.

Senator TAFT. Then, we had our Cecil de Mille case, where he claimed he was fired because he would not pay \$1 assessment for political purposes. The court held he was fired. I suppose he could not go on the radio for months.

Mr. GREEN. That case was given publicity all over the country.

Senator TAFT. Only because it is an example, Mr. Green.

Mr. GREEN. Every individual case has been brought to your attention, I suppose. It is the individual cases where you will find it in the family, in all walks of life, all complaints of that kind, but you do not correct it by legislation.

Senator TAFT. Well, after all, the Wagner Act, Mr. Green—

Mr. GREEN. The employer can exercise the right to discharge an employee for almost any reason at all, according to whim, but where is his remedy? He has to take his medicine. Why don't you prevent the employer from discharging that man?

Senator TAFT. It presumes he fires him because he is no good. [Laughter.]

That is the motive of 99 employers out of 100.

Mr. Green, I take it you think there should be no provision against the closed or union shop; is that right?

Mr. GREEN. That should be dealt with by employers and employees. We are not favorable to anything that is wrong and we are willing to correct it when it is brought to our attention and will do it in accordance with fairness and justice. You don't correct evils and complaints by law in other lines of life. Why do you do it here?

Senator TAFT. Chiefly because the Wagner Act said the employer cannot fire a man because of his membership in a union or because of nonmembership in a union, and the Wagner Act had to put in an express provision to legalize the closed shop or it would have been

illegal under the general principles of the Wagner Act because the Wagner Act said he couldn't fire a man because of his belonging to a union or not belonging to a union, couldn't discriminate against a man on account of belonging to or not belonging to a union. They had to put in the express authorization for a closed shop, so that is the reason we have to deal with it. It is because of the Wagner Act. If it hadn't been for the Wagner Act, we wouldn't have to deal with it.

If we have to deal with the closed shop, then we have the problem before us and we have to deal with it the best way we can. Maybe the way we have dealt with it in this is not the best way, but you have no other remedy to suggest, I take it, along the lines I have outlined.

Mr. Green, don't you think the unions today have got to a position where they ought to have equal responsibility with employers in a general way?

Mr. GREEN. What do you mean, moral or legal responsibility?

Senator TAFT. Both.

Mr. GREEN. They have a moral responsibility and we recognize it. I have told you about a form of organization. The employer employs the people. We must take them into our union as we find them. Some of them are bad and some of them are good. Some of them will do things we don't approve of. You want to make the union responsible for the individual's act?

Senator TAFT. Certainly not unless he is authorized by the union to do it.

Mr. GREEN. How are you going to deal with a situation like that by law?

Senator TAFT. It raises the question of agency. I don't see why unions shouldn't be just as liable for something done for them by an agent as is an employer for something done for him by an agent. He is not an agent just because he is a member of the union. That is certain.

Mr. GREEN. The facts are that some of these fellows are elected as business agents. Then when a person gets in power like that, the appeal must be made to the national officers and in some instances they are removed from office, removed from the position they hold because they don't carry out the principles and the policies.

Senator TAFT. But if an agent of the union within the scope of the authority given him by the union board does certain things, I don't see why the union wouldn't be responsible for it just as anybody else. What is the difference?

Mr. GREEN. We can differ in our point of view on that.

Senator TAFT. What is the difference, though, Mr. Green? Why, if any businessman or anybody else authorizes an agent and that agent within the scope of his employment does certain things, that man is responsible, why shouldn't the same treatment apply to unions?

Mr. GREEN. Your Taft-Hartley Act states:

For the purpose of this section in determining whether any person is acting as an agent of another person so as to make such other person responsible for his act, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

Senator TAFT. It is a question of fact on agency. It is so with every employer. It simply restores the rule and makes the union liable, as is the employer, for the acts of his agent. He has to be an

agent acting within the scope of his employment and authority or else he is not an agent. But you think the union should not be liable?

Mr. GREEN. No; I don't think the union should be because I think it should be acted on by the union without legislation.

Senator TAFT. Mr. Green, do you think the union ought to be legally bound to bargain collectively the way the employer is?

Mr. GREEN. Well, I don't see why there should be any suggestion even of requiring a union legally to do that because that is the object of the union, to bargain collectively with employers, and my experience through life has shown that the union begs for the opportunity of bargaining collectively. Many times employers will not bargain with them.

Senator TAFT. That was true before the Wagner Act, but courts have found that unions have refused to bargain collectively certainly since the Taft-Hartley law. How can you face your labor policy on a policy of free and equal collective bargaining unless both parties are bound to bargain, have the same obligation, either none or the same, whatever it is?

Mr. GREEN. That is the aim and objective and purpose of the trade union.

Senator TAFT. What can be the objection to saying they have to do it?

Mr. GREEN. It is formed for the purpose of bargaining collectively with management and employers. I can't for the life of me understand why there is any legal requirement to compel them to do it when this is their objective.

Senator TAFT. The ITU testified that for years and years prior to the Wagner Act they never made a contract. They simply posted their rates. There weren't any contracts. It wasn't the object of the ITU and that was one of the best unions, according to testimony.

Mr. GREEN. Many times the employers doesn't want to.

Senator TAFT. But if the employer doesn't want to and the union does, the employer has to bargain. Why shouldn't the union have to bargain? I don't understand the difference.

Mr. GREEN. I know when representatives of unions have gotten down on their knees and begged management to sit down and bargain with them, and they say "No."

Senator TAFT. They should be made to bargain, but why shouldn't the union be subject to the same obligation?

Mr. GREEN. We have had a tremendous fight ever since 1870; we have had a tremendous fight to gain collective bargaining and now here at this late day we find that you must put a section in a statute to compel you to bargain when it has always been our policy. Please bargain with us, come on; I beg you to bargain with us. The answer is "No." The answer is "I own this property and I am managing it, and you have nothing to say about it or nothing to do with it."

That has been our experience.

Senator TAFT. That hasn't been so since the Wagner Act in 1935, which is about 14 years ago, Mr. Green.

Mr. GREEN. You must have information that I don't have. I never knew of a single union that ever refused to bargain collectively.

Senator TAFT. The courts have found that they have.

Mr. Green, in any event you don't think the union should be subject to the obligation to bargain collectively under the law?

Mr. GREEN. There is the obligation by our union to do it. So far as I am concerned, if there is anyone that refuses, I will see that he does.

Senator TAFT. When the bargain is made, do you think the union ought to be liable on its contract?

Mr. GREEN. When the bargain is made?

Senator TAFT. We make the collective bargaining now and sign. Do you think the union ought to be liable on its contract, legally responsible on its contract?

Mr. GREEN. I have told you that the union is morally responsible for carrying out the contract and pledges its sacred honor, pledges all it has got to do it, but to place in the hands of some employer the right to sue for some alleged violation of contract would be a great wrong because he has the power to place in this plant, and place in that plant and among those workers here, men who will create violations of the contract in order to break up the union. Many and many employers have for their objective in life the breaking up of unions.

Senator TAFT. That would be an unfair labor practice under the law.

Mr. GREEN. You couldn't prove it on him.

Senator TAFT. The Board has a pretty effective means of proving.

Mr. GREEN. You are putting a club in the hands of somebody to destroy a union when you put that in, and we can't afford to do that and live. We would die, die; we are not going to die.

Senator TAFT. I think everybody else in this country is liable on his contracts, but no union.

Mr. GREEN. Because of the composition. I have told you John, Jack, and Bill, some coming from Hungary, some from Czechoslovakia, some from Poland, we have to take him in as a member. Can't even speak our language. One or two of them could do something that is in violation and then the whole union would be responsible for it and haled into court and compelled to do this and that.

Senator TAFT. Certainly any corporation I know of is likely to have just the same kind of employees who are likely to run their trucks into people when they should not and they are likely to do all sorts of things they should not do, and he is liable in court and liable on contracts.

Mr. GREEN. They skate along the narrow edge of violations of contracts, and they are not subject to anybody's legal prosecution.

Senator TAFT. Everybody in the United States except the unions now is liable for breach of his contract. I think the theory that you are going to have suits, of course, a suit is only brought in one in a million cases, but the fact that a man is liable attaches a responsibility to that contract, it seems to me, which is essential if it is going to be fair and equal.

Mr. GREEN. I see you are tremendously interested in having some way to file suits against unions.

Senator TAFT. It is not that, Mr. Green, but I do think that a union should feel if they don't keep a contract they will be liable to suffer a financial loss.

Mr. GREEN. They pledge their honor and everything they have got to observe that contract, and that is a cardinal principle with us, to tell them they have to do that at any cost and under any circumstances,

but to set up something for some unscrupulous employer to grab and bring us into court and kill us through that procedure, that isn't wise.

The fact that they have entered into a contract and signed can be taken into court just like any other person is and the court can determine whether there is any damages to be paid.

Senator TAFT. I had two cases involving neon-sign manufacturers. One had a CIO union and one, I think, had no union. The AFL Sign Hangers Union refused to hang their signs and at least in one case the plant was driven out of business.

Do you think a union ought to be allowed to do that without being responsible to that man who was damaged?

Mr. GREEN. That is boycotting?

Senator TAFT. That is a secondary boycott. Do you think a union ought to be responsible in some way to make good to that man whose property and business they have destroyed?

Mr. GREEN. It is my judgment that if the matter is taken up with the higher officers in the union, it can be corrected.

Senator TAFT. Do you approve of the secondary boycott provisions in the Thomas bill?

Mr. GREEN. I think they are about as far as we could go and that is going a good way, what is provided for in the Thomas bill.

Senator TAFT. You do admit that there is a case in which the union ought to be responsible for a secondary boycott and ought to be forbidden.

Mr. GREEN. Whatever is provided for I think we are agreeable to that.

Senator TAFT. But not one step beyond that, is that it?

Mr. Green, I don't want to make a speech, but it seems to me you are claiming the most extraordinary special privilege that any organization ever claimed in the United States for the union.

Mr. GREEN. All right, Senator. We know when a measure is striking at our heart and when it is not.

Senator PEPPER. If the Senator will excuse me a minute—Mr. Green, isn't there a tendency on the part of the Senator from Ohio to overlook, as does the Taft-Hartley law, the fact that a union is not a corporation, it is not a partnership, it is not a group of people engaged in enterprise, it is simply an association of American citizens and that the difference between the liability of the corporation under a contract, which is to pay a sum of money and accept the services of the worker, is a matter that is enforceable in court; whereas, in the case of the worker it involves the body of a human being, which is a man, made in the image of God.

He is not an artificial corporation that is under some duty to pay a sum of money, and we have got laws against servitude and slavery, against compulsion of workers to render their services for anybody. Even if it be a ballplayer or an opera singer, at least I don't know of any law that can make them play ball or sing for an employer.

Senator DONNELL. Will the Senator yield?

Senator PEPPER. Yes.

Senator DONNELL. Does the Senator recall at this moment again section 502 of the Taft-Hartley Act? It says:

Nothing in this act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this act be construed to make the quitting of his labor by an individual employee an illegal

act; nor shall any court issue any process to compel the performance by an individual employees of such labor or service, without his consent * * *

Does the Senator recall that section in the act?

Senator PEPPER. Yes, Senator, and I know that very well and yet we are told here from the housetops that if we don't preserve the injunction privilege and if we don't thereby assure the continuity of production by the workers of this country, that the heart of the Nation will be bared to the daggers of labor, which must indicate on the part of such advocates that they believe there is a power to make men work.

Senator DONNELL. Do you think there is any such power?

Senator TAFT. I didn't hear anything about that dagger business.

Senator PEPPER. I think there are a great many people employing that analogy of the dagger with reference to the Taft-Hartley Act.

Senator SMITH. Senator Donnell and I haven't had a chance even to say hello to Mr. Green.

Senator PEPPER. I just wanted to ask that question.

Senator SMITH. Very well.

Senator DONNELL. I would like to remind the committee again that I am not going to relinquish the opportunity to cross-examine Mr. Green, and I understood from Senator Morse that it had been decided in subcommittee that we will go on, I gathered that we will do so even tomorrow with Mr. Green. I cannot finish an examination of Mr. Green in 45 minutes and don't undertake to do so and don't make any promises as to how long I will take, but I want that perfectly clear, so that you will not have the understanding that either Senator Smith or I or both of us will finish this evening.

The CHAIRMAN. The subcommittee will have to face that problem, Senator Donnell.

Senator DONNELL. The subcommittee has faced it, so Senator Morse says, and I will not with my consent be deprived of full and adequate opportunity to cross-examine Mr. Green.

The CHAIRMAN. Senator Morse, a member of the subcommittee, said they would take it under advisement.

Senator DONNELL. He said it had been decided and I understood him to mean that we will go on tomorrow if we do not finish today.

The CHAIRMAN. I surely don't want to take up any of your time in trying to make out the ruling of the subcommittee, so we will wait until tomorrow morning and have them bring in their report.

Senator SMITH. May I proceed, Mr. Chairman?

The CHAIRMAN. Yes, please.

Senator SMITH. Mr. Green, I want to begin by thinking you sincerely for the letter you wrote me, which I just received a day or two ago, in response to a letter I wrote you in which I suggested to you, if you recall, that I felt we should have an approach, if we could, to these problems without getting into this feeling of class warfare, which I fear so much in this country, but rather on the basis of partisanship.

I suggested in the letter to you, which contained a copy of a letter to another labor friend of mine, that there might be a statesmanlike approach to review together the statements coming from both sides and determine what they are and try to find remedies for the problems we have to face.

Mr. GREEN. I thank you for your letter.

Senator SMITH. I appreciated your letter, and I want to say I have always admired you as one of the outstanding statesmen of labor. I know your sincerity, I know what you have tried to do, I commend you for your great war service, and agree with Senator Humphrey with regard to the great contribution made by labor during the war.

The purpose of my questions which I am going to ask today is to try to clear up some of the things that trouble me. I think there are things we could iron out readily if we did not get into the attitude of conflict. I would like to move away from the idea of the balance of power between two strong groups and move away from conflict and see if we can't think in terms of partnership in labor-management relations.

I am sure from your note to me that you feel the same approach would be desirable.

Mr. GREEN. I am largely in agreement with you on that.

Senator SMITH. I gather from your testimony that the two things troubling you most about the Taft-Hartley Act—and may I say here that I am one of those who participated in drafting that legislation, not with the idea of injuring labor, but with the idea of trying to see if we could iron out these difficulties, and I want to speak for the sincerity of others who participated in that work. We may have made mistakes, and I see things we should correct, but I don't think we should question the sincerity of those who tried to meet a difficulty there and work it out.

Let's start there and move into some of these things that are particularly troublesome to me. I think the two major things you are troubled with are the closed shop and the injunction. Much of the ground has been covered, but it would seem to me the logic of your position is—and I want to ask you if this is your philosophy and your conception of the labor movement—that ultimately all of the workers in this country should be in a labor union. I think that is the feeling of most labor unions I know and I agree, I think.

But today, Mr. Green, if I have got the figures right, in the neighborhood of not to exceed 15,000,000 people are members of unions out of a total employed of somewhere between 40 and 50 million people. Possibly one-third of all workers in industry are unionized, so that we have a long way to go and we have a big problem of protecting those who today are not in unions.

So I was very much interested in the question of Senator Taft about the closed shop. Now let's say the closed shop is the right approach. Let's say we would restore the right to bargain for a closed shop. Does that mean that the union should be open? Did I understand you to say that anybody can join an A. F. of L. union that wants to?

Mr. GREEN. Yes.

Senator SMITH. Any free American can come into the union and make application and become a member?

Mr. GREEN. That is our policy. The door is open to workers who wish to belong to our union, and where the workers in a plant or in an industry decide that this is best for us, we want it, and the employer agrees that it is best for him, that they should have the right to enter into an agreement providing for that very set-up.

Senator SMITH. I understand your position. We will assume a plant which had been partly unionized and negotiations come up for the closed shop and it is agreed to.

Mr. GREEN. Freedom of contract.

Senator SMITH. Freedom of contract. Mr. Jones, who is working in the shop, wants to join and he feels the initiation fee is too high. He can't help himself. He has to pay whatever it is, he has to accept whatever the dues may be, he has to accept any assessments or regulations made by the union.

I think that is reasonable to understand, but I want to see how far we are going to go in that. Mr. Randolph, the other day, made a splendid case for the hundred years of continuous closed shop in the ITU in the printing industry. I was very much impressed with his testimony, but he used this statement, after showing us a book of laws of the ITU. I put it down because it so impressed me. He said:

These laws exceed the democracy of the country itself.

In other words, that union makes laws that are more democratic than the laws of the United States to protect the individual citizen, and the implication was because of that fact, that that union had the right for its people to make laws governing the whole question of a man earning his livelihood and having nothing to do with the laws of the United States whatever, that those laws were superior.

I grant you after 100 years of experience they have probably worked out one of the best codes of labor organization and labor-management relationships, which they have insisted on, I will grant you that may all be true, and I have no question about the A. F. of L. having done the same thing, but I am wondering if you would take the position that those laws are so good and so perfect and can be made by the union itself affecting this difference between 15 million and the 40 or 50 million others who may not be in unions, whether you think any union should have the right to lay down the conditions upon which the rest of those American citizens shall get employment and earn a livelihood.

That troubles me, Mr. Green, and I should think you might be willing to say if we are going to have a closed shop recognized, we should be willing to have open unions recognized with reasonable terms and conditions of joining, at least subject to review by the National Labor Relations Board, or some arm of government that would insure to the individual—not that the well-established unions are offenders; they are fair—but there were cases that I heard of during the war, for instance, where one man told me he had to pay \$500 to get a job.

What can possibly protect that poor devil? He came to me, and I said, "I don't know what you can do." One of our members told us of cases during the war when a fellow had to pay \$1,500 for the right to work. That troubles me.

I think you will agree with me that if that kind of abuse exists, we ought to have some way between us to work that out. How would you deal with a case like that?

Mr. GREEN. I know of no such cases as that, and I have been in our movement for a long period of time.

Senator SMITH. I don't think it is in the A. F. of L. Probably it is some other trade.

Mr. GREEN. I know of no such initiation fees that prevail in any union connected with the American Federation of Labor. But the thing is, Senator, you seem to overlook that the workers in a plant decide this for themselves. Can't they have what they want under our law? They decide that is best for us. Now if somebody else thinks that is wrong, then let him get a job some place else because, as you have said, one-third of the workers of the Nation are organized. That means there must be two-thirds of the workers working in plants where no organization exists.

Senator SMITH. That is true today.

Mr. GREEN. Why can't he go there and find a job where it will be acceptable and satisfactory and suitable to him?

Senator SMITH. In certain areas it is very difficult. In the construction trades, Mr. Green, I am told a man can't get a job in the construction trades unless he joins the union.

Mr. GREEN. Why should 1 man impose his will upon a majority of 100, for instance? You can't do it in a church, you can't do it in a fraternal society, or in the legal or in the medical profession.

Senator SMITH. I am not advocating that.

Mr. GREEN. No single person is above and beyond the cast majority of the people.

Senator SMITH. But what I am getting at is this: If you are going to have the closed-shop principle in industry and there are men there who may not want to join, but because it has been decided they have to join, what protection do we give them as union memberships increase throughout the country against possible abuses of power such as I have suggested?

I have only mentioned those two cases, but I did hear of a man having to pay \$500 for a job. That was in my own town.

Mr. GREEN. I don't know about that. You can bring up individual cases like that that I know nothing about, and I can't answer.

Senator SMITH. This is a question which we as legislators must face if we recognize the legality of the closed shop. It seems to me we have to recognize, to protect the public as a whole, the principle of open unions and the conditions on which people join those unions.

Mr. GREEN. He can go and find a job some place else and not pay a penny of initiation fee.

Senator SMITH. Let's conceive of this condition. Your major wish is to unionize the whole country. I don't object to that. Then you are approaching an ideal from your standpoint of unionized labor all over the country.

Mr. GREEN. Has the working man in America got a right to join unions?

Senator SMITH. I don't know. I assume he has a right if he can get in.

Mr. GREEN. In America is a union recognized as a legal entity and does it have a right to exist?

Senator SMITH. It isn't a legal entity, I think, because they don't want it to be. It is a voluntary organization, not a legal entity, a voluntary organization.

Mr. GREEN. A voluntary organization existing, formed freely by the workers themselves, and here is a group, a hundred, 200 or 500 here, and they are working in this plant. They want their own union. They want to deal with the employers as union people.

They decide unanimously. Now is there one man to come along and say, "You can't have that because I am against it?"

Senator SMITH. I am not arguing for that.

Mr. GREEN. Do you think that is right?

Senator SMITH. I am not arguing for that.

Mr. GREEN. That is the basis of our closed-shop agreements.

Senator SMITH. I realize that. I am just trying to say if you are going to have the closed shop recognized and close the shop in this particular industry, that you have got to have an open union first and you have agreed to that without regard to race, creed, or color, all of that.

Second, it seems to me there has to be some check-up at least on the kind of restrictions imposed on a man when he goes into that organization or else he is not a free American to find a job and work out his own living. As you approach the point where you absorb the labor in the country into the unions; that is.

It is a government within a government which troubles me. I am not criticizing it. It does bother me to have a government within a government that runs itself with the over-all government, Federal and State governments, not having some responsibility for the condition of free Americans.

I see your position, but I do think you are overlooking something that is very fundamental here in our whole structure of government. When Mr. Randolph says that the laws laid down by the ITU are more democratic than the democracy of the country itself, then I get a little bit alarmed. We are setting up something here within our whole Federal structure.

I am not objecting to it, but I am saying if you are going to have that sort of thing, that those laws at least should be subject to supervision by the over-all Government trying to protect all our people.

Mr. GREEN. The ITU affairs were administered in a democratic way and it demonstrated democracy in action.

Senator SMITH. That is right.

Mr. GREEN. And it practiced democracy in the union more than democracy is practiced in the country. That is what he may have meant.

Senator SMITH. I think he did.

Senator HUMPHREY. Do you think that is dangerous?

Senator SMITH. I am still wondering if that was the meaning, whether we should say that is the last word on the rules that govern the livelihood of people belonging to unions in getting their jobs, and so on. I am only raising the question. I am in perfect good faith and I don't want to irritate you by it, but I simply ask you to explore it because I think those of us who think there should be some protection for the individual who has to join, I think we ought to think in terms of protecting that ordinary worker, and a lot of them have said, "We have to join the union or we can't get a job." Nobody can get a house job, nobody can paint my house unless he joins the union, nobody can fix my plumbing for me unless he joins the union. Lots of them say, "We have no alternative."

Mr. GREEN. That is the closed shop in operation. Do you want the door open so that the individual can say, "I am going in regardless of what you have got here?"

Senator SMITH. No, I am not arguing that. I am simply saying that fellow should be protected against being overcharged and subject to other abuses when he is compelled to join that organization in order to get a job.

Mr. GREEN. That is a different question. You are talking about excessive initiation fees.

Senator SMITH. Yes, that sort of thing and other regulations such as firing without due cause, et cetera.

Mr. GREEN. I know what our policy is, and it provides for a reasonable initiation fee. Here is the constitution of the American Federation of Labor.

Senator SMITH. I am perfectly willing to give you all the credit due to you and to the American Federation of Labor. It is a great organization. But I am trying to ask you as a matter of governmental set-up, whether, considering the size of the groups now being organized, we do not have to think in terms of the American worker who is going to be compelled to join a union and accept the conditions without any appeal, without any control whatever, without any legal control.

Mr. GREEN. Here is this section of the law that provides that a man joining a Federal labor union chartered by the American Federation of Labor shall not pay in excess of \$15. Many of them only pay \$1. Many of them only \$2.

Senator SMITH. I am not criticizing that. I am saying this: Should there be any check on that by any legal agency?

You are saying "No." I say it is difficult for me to accept that when we accept a closed shop which says I have to join this outfit in order to work here. I don't want to delay this too much. I want to go to the other subject of the injunction, and I want to make it perfectly clear that there is no one in the Congress today, certainly not myself or my colleagues here, in spite of the speeches made on the subject about the law by injunction, nobody believes in that.

Mr. Hoover, the former President, was President when the Norris-LaGuardia Act was passed, and at the time he told me it had to be passed. He didn't believe in the injunction. This is a bipartisan matter. We don't believe in government by injunction.

It comes up here, it seems to me, in the emergency situation where the health and welfare of the people are affected and where the President has to act through the Attorney General in emergency cases. That is the distinction I want to make because I can't find in here an attempt to go back to the old injunction by application of an employer. There is no place in this bill, unless I read it wrong, that says any employer can seek an injunction.

It could only be done by the NLRB moving in when a cease and desist order came in and getting a court order.

In the President's bill you have got a provision here that there can be an unfair labor practice by a union in those boycott cases, and in that case a cease and desist order can come. The principle is the same. I am simply saying to you: If we do have a situation where the health and welfare of the people are concerned in this country, the President has to be given power somehow to protect that situation, because, after all, the welfare of all the people is above the welfare of any special group.

Mr. GREEN. When was the public health and welfare and safety ever threatened by labor?

Senator SMITH. I think that the railroad strike brought us pretty close.

Mr. GREEN. What railroad strike?

Senator SMITH. The railroad strike when President Truman had an altercation.

Mr. GREEN. There has been no railroad strike.

Senator SMITH. I mean when President Truman suggested putting the men in the Army.

Mr. GREEN. That was a threat on the part of one representative of a railroad organization and not by the railroad groups themselves.

Senator SMITH. Well, anyway, it was tying up the transportation. Didn't we have the same thing with the coal strike?

Mr. GREEN. And in that case the employers were the ones that were responsible for it, and yet you have never said what you were going to do with employers in an emergency.

Senator SMITH. Well, Mr. Green——

Mr. GREEN. Listen to me.

Senator SMITH. Don't let's get into a class warfare here. I want to work together with you.

Mr. GREEN. I searched this Taft-Hartley law and other legislation, and I can't find where there is a single reference in any statute to dealing with employers.

Senator SMITH. What is a lock-out?

Mr. GREEN. They may be responsible for an emergency. In the miners' strike, the employers gave the miners everything they asked for after the strike was on. Why didn't they give it to them in the first place?

Senator SMITH. I don't decide that.

Mr. GREEN. But that is a fact. Who is responsible then when you do that?

Senator SMITH. Mr. Green, I am just as eager to see the health and welfare protected against employers as I am to see it protected against labor. Everybody assumes that because we are arguing for these protections for the health and welfare of the people of the country that we are arguing against labor.

I am not arguing against labor. I am arguing against the menace of a stoppage.

Mr. GREEN. Don't you think the workers of the country are conscious of their responsibilities as citizens?

Senator SMITH. Yes.

Mr. GREEN. Do you think they are so unpatriotic as to plot against our Government and threaten its very welfare and its existence?

Senator SMITH. I don't know about that, Mr. Green.

Mr. GREEN. They are just as patriotic as you are.

Senator SMITH. I am sure of it.

Mr. GREEN. They are not seeking to create these emergencies which must be corrected by this compulsory legislation.

Senator SMITH. Wait a minute. I am only going to the Supreme Court.

Mr. GREEN. Injunctions never dug coal or produced a single thing, and you can get all the injunctions you want, but if the workers who

produce stand there like a stone wall, you do not get production. You have to find the way to get them to produce.

Senator SMITH. How can we do it? The President used the Taft-Hartley Act, I think it was, six times. If he didn't need to, he shouldn't have used it.

Mr. GREEN. It can be done through the exercise of good judgment and common sense. We are trying to include in this emergency section the policy that has been pursued by the railroads over a century or over a half century.

Senator SMITH. It worked pretty well.

Mr. GREEN. There are no strikes on the railroads, and experience is a good teacher. It has taught us, this plan has prevented strikes on the railroads. That plan; not law: that plan. Now, if it will stop it on the railroads, can't we stop it in other lines?

Senator SMITH. Doesn't that plan contemplate 30 days' moratorium?

Mr. GREEN. There is a provision there for 30 days' cooling off.

Senator SMITH. Is that legal?

Mr. GREEN. That, I think, is put in this bill. You have got it in here. Why? You have got it in because experience has taught you it is a good way to prevent emergencies.

Senator SMITH. All right, that is good. I am for that.

Mr. Davis thought it ought to be a total of 60 days as against 80 days in the Taft-Hartley Act. I couldn't get the difference.

Mr. GREEN. Under this law, there are negotiations going on with a group of nonoperating railroad workers in Chicago. They followed the lines laid down in the Railway Labor Act, with a cooling-off period, and the appointment of a fact-finding board, mediation.

Senator SMITH. And recommendation.

Mr. GREEN. And they have all exhausted themselves. A settlement hasn't been reached, but they are still negotiating in Chicago, and no stoppage has occurred, and no stoppage will occur, because they are conscious of their responsibility to the public.

Senator SMITH. That is fine.

Mr. GREEN. That is what it is, and they get no credit for it, nor do we get credit for it.

Senator SMITH. I will give you all the credit in the world.

Mr. GREEN. You want to make us, force us, compel us.

Senator SMITH. I am exploring a method with you.

Do I understand from your testimony, then, that you think we ought to put something in this legislation akin to or similar to that Railway Labor Act?

Mr. GREEN. Yes; we are agreeable to follow that line.

Senator SMITH. Well, it might be the thing to try. My mind is open on it.

Mr. GREEN. Yes, sir. Senator, we are glad to follow that line. God, we are willing to go a long way, and we don't want any emergency, and when an emergency threatens you can count on us going to the extreme limit to prevent it. Why don't you make employers do something? Why isn't there something in the Taft-Hartley Act which says if an employer is found to be responsible for an emergency, he is going to be penalized? It isn't in there. And it was the employers in the coal industry who were responsible for

that emergency because they gave them everything they asked for after the emergency had been created, and they could have given it before an emergency had been created.

They made more money since they gave it than they ever made in the history of mining in America.

Senator SMITH. That was a controversy which did involve an emergency, and I am just trying to explore some way to meet controversies and emergencies of that kind. I am not debating with you what you are driving at, except that I am perfectly willing to go the whole length of penalizing the employer, whoever it may be, but I don't think we need to penalize anybody. I think we ought to work out some plan whereby the public is protected in emergencies.

Mr. GREEN. If you penalize one, you should penalize the other.

Senator SMITH. Penalize them both. Don't give anybody an advantage by bringing about a moratorium.

I felt those two things were what you felt most disturbed about. I have just one more I would like to speak to you about. In regard to the discussion about whether the union should be under obligation to bargain, this kind of case comes to my attention.

Big Steel makes a deal on steel prices and a Little Steel concern in my State starts to bargain for a contract on steel. It is not a member of the Big Steel set-up. A contract is handed to them by the labor organization—take it or leave it. They won't bargain.

That is the kind of case where it seems to me you have to decide whether to bargain on the local level or whether you decide that the bargaining which has been done on the top level is controlling and covers the country. It seems that the local union should be willing to bargain, even though they expect to stand on their position. They should explain the situation to their employer and the employer should be able to explain to them.

Mr. GREEN. I think they should bargain. The unions shall bargain collectively with employers.

Senator SMITH. You said you knew of no case. That was a case where they had refused.

Mr. GREEN. There is a solemn obligation on their part to do that.

Senator SMITH. In situations where we do have those cases, where a local declines to bargain, is there any reason why we shouldn't require them to bargain as well as require the employer to bargain? That was my reason for supporting the provision in the law before. Is that fair enough?

Mr. GREEN. Fair enough. That is an obligation, but when you compel them to by penalties, never.

Senator SMITH. It isn't a penalty, except you penalize the employer if he doesn't do it, and they should both be on the same basis.

Mr. GREEN. I didn't understand you before.

Senator SMITH. That is all.

Senator DONNELL. I want the record to show, Mr. Chairman, it is now 17 minutes past 5 o'clock in the afternoon. In the second place, under the committee's rule, as I understand it, it has been determined to hold these hearings each day until 5:30 in the afternoon so that after I complete this statement, I shall have had less than 13 minutes of cross-examination of Mr. Green. I am confident Mr. Green would very courteously and obligingly come back to the committee tomorrow, and I am quite willing to continue for these few minutes with him,

but I certainly shall not without the most vigorous protest of which I am capable consent to a limitation of my right to cross-examine and have it confined to 13 minutes, my cross-examination of the head of the American Federation of Labor.

The CHAIRMAN. May I read the latest rule of procedure established by the subcommittee, which seems to me to settle this question.

Senator DONNELL. That is good.

The CHAIRMAN. I think everyone knows that we are trying to do things in a way which seems to be impossible when we get at them. The rules adopted by the subcommittee allocate this afternoon's and tomorrow morning's session to the minority witnesses. Currently, they have scheduled for this afternoon and tomorrow morning six witnesses not including Mr. Green.

The minority has a complete right to recall Mr. Green as a substitute for any or all of their witnesses. The majority announces its intention to abide by the agreed-upon procedure and to call its witness, Mr. Paul M. Geary, at 2:30 p. m. tomorrow.

That means that if the minority takes up all of tomorrow morning's time, it will be counted against them.

I have asked for a report as to how we are doing on the matter of minutes and seconds, and I think I should read it. If the Republicans finish at 5:30, which they are not going to do——

Senator DONNELL. No; we are not.

The CHAIRMAN. If they are finished at 5:30 uninterruptedly, there will have been consumed: Democratic minutes, 339; Republican minutes, 374; Neutral, purely procedural, which I suppose you will have to blame on the chairman, 7. Total 720.

Now, I think when a gentleman has been on the witness stand, unless we want to literally kill him off, that President Green ought to have the right to come back tomorrow morning, and I think Senator Donnell will be a little bit more fresh, too, tomorrow than today.

Senator DONNELL. He certainly will.

The CHAIRMAN. It seems to me it would be a good idea for us to take a 10-minute period and stand adjourned until 9:30 tomorrow morning, although I am not ruling that. I am merely putting it up as a proposition.

Senator DONNELL. May I make this proposition?

I think it is highly advisable, certainly from the standpoint of both Mr. Green and myself, and I think all of us, including the reporters, and everyone, since it is now only about 9 minutes until the end of the 5:30 period, we should not start on this cross-examination this afternoon. I am ready to do it and can start right now, but if Mr. Green will be kind enough to come back tomorrow morning I think it would be well to continue.

As to the division of time, as to which side is to be charged, I am quite willing to abide by the recommendation, whatever it may be, of the subcommittee. I do want to say this, that I take it Mr. Green has been called by the present majority members. Am I correct that he was called by the majority members of the committee?

The CHAIRMAN. The request for him to come back this afternoon was a request from the Republican side. I don't want to get into that, and if he has to go over, of course, he will come on Republican time.

Senator DONNELL. While I appreciate this is not a court procedure in any sense, and none of us consider it to be such, I do not want

the record to show that we are calling Mr. Green as our witness. In other words, I want to have the right to cross-examine Mr. Green and not examine him as a witness called by our side.

Senator MURRAY. Of course, under the rules the cross-examination time is charged to the minority side.

Senator DONNELL. That was my understanding, that it was charged to the person conducting the cross-examination.

The CHAIRMAN. It might be well to put this into the record:

And that the time consumed on cross-examination shall be charged to the side conducting such cross-examination.

Senator DONNELL. That is perfectly fair, I think. May I ask as a matter of information to whom these few minutes are charged, whether to the chairman or to the minority?

Senator MURRAY. The whole afternoon period is charged to the Republicans.

Mr. GREEN. I will esteem it a genuine privilege and pleasure to come back in the morning for the express purpose of accommodating Senator Donnell.

Senator DONNELL. That is very kind of Mr. Green, and may I express my appreciation for his very fine courtesy.

The CHAIRMAN. If any of the witnesses who have been discommoded, if I may use that word, and want to offer their written statement as their testimony and be excused, I would be happy to entertain any idea of that kind, because the time will come when we will probably have to squeeze someone out.

Mr. GREEN. Mr. Chairman, may I make this request?

Chairman Richard Gray of the Building Trades Department has assembled some very, very valuable information, detailed in character, referring to special cases, a number of them, showing how they have been affected by the operation of the Taft-Hartley law, in detail, and I should like for you to afford him an opportunity to present that information to this committee.

The CHAIRMAN. Have you got it, President Green?

Mr. GREEN. He has got it here.

The CHAIRMAN. Will you put it in the record?

Mr. GREEN. I should like to have him testify and subject himself to cross-examination by my good friend, Senator Donnell, and others.

The CHAIRMAN. We will have to hand that request over to the subcommittee for their consideration, but as far as the record is concerned, I think there will be no objection at all to putting his statement into the record if that is what you want.

Senator HUMPHREY. Before we leave tonight, Mr. Chairman—you can charge this up to the Democratic side—I want to contest the validity of three of the four claims made by the Senator from Ohio, and I will even contest the fourth one, and we will offer appropriate evidence for the record.

I don't believe in letting these things go by unchallenged. They are, No. 1, fewer strikes; No. 2, a steady increase in wages; No. 3, a great increase in union membership and productivity of workers. I remember the day that I mentioned that productivity of workers had gone up in this country, and I was severely challenged by the Senator from Ohio as to my facts. I told him they were readily available, and now I find out he has presented the evidence I needed.

Senator DONNELL. What were the others?

Senator HUMPHREY. Fewer strikes, steady increase in wages—and let's not consider wages in a vacuum but consider them in the whole economic picture—great increase in union membership. We will consider union membership in proportion to population and not in a vacuum.

I contest the validity of all three claims and I also contest the validity of other economic statements made this afternoon, and I am prepared at any time to challenge some of the statements made, some of the economic claims made this afternoon by the Senator from Ohio.

Senator SMITH. Would the Senator permit me to make a comment?

In criticizing the effect of the tax law you omitted to state that 7,400,000 people in the lowest income brackets were taken off the tax rolls by the tax law, and you omitted to state also that 71 percent of the tax savings went to the benefit of people with incomes of \$5,000 or less.

Senator HUMPHREY. I heard that all during my campaign, and it is good campaign material, but the take-home pay is what is important.

Senator SMITH. They are figures from the Treasury Department from which I am quoting.

Senator HUMPHREY. The Treasury Department released those figures and they were used by only 15 newspapers in the entire United States, or the other figures as to the percentage of increase in income after taxes.

Senator SMITH. I am telling you of the people relieved of the tax burden.

Senator HUMPHREY. The \$600 a year income group?

Senator SMITH. It is a difference of approach.

The CHAIRMAN. We will stand in recess until 9:30 tomorrow morning.

(Whereupon, at 5:35 p. m., the committee adjourned, to reconvene at 9:30 a. m., Wednesday, February 16, 1940.)

(Mr. Green submitted the following prepared statement:)

STATEMENT BY WILLIAM GREEN, PRESIDENT, AMERICAN FEDERATION OF LABOR

I welcome this opportunity to present to you the decision of the representatives of the 8,000,000 members of the American Federation of Labor regarding the Taft-Hartley law, its repeal and the reenactment of the Wagner Act with amendments which would be thoroughly considered, acceptable, and satisfactory. I thank you for the opportunity you have accorded me to do this.

This action was taken at the Sixty-seventh Annual Convention of the American Federation of Labor which was held at Cincinnati last November. Those who participated in the deliberations of said convention definitely and unanimously decided to call upon Congress to repeal the Taft-Hartley law; then following said action to reenact the Wagner Act of July 5, 1935, with such amendments as seemed necessary, acceptable, and satisfactory. However, your committee decided to provide for the repeal of the Taft-Hartley law and the reenactment of the Wagner Act with amendments at the same time. This, I understand, is the procedure provided for in Senate bill 249.

The Taft-Hartley law was passed over the strong and practically universal opposition of labor. Working men and women throughout the Nation protested against the passage of this objectionable legislation. This opposition was based upon the knowledge of labor that it was impracticable, unworkable, and destructive of the common elemental rights of labor. Time and experience have shown that labor was right and the sponsors of the bill were wrong. This outcome is traceable to the fact that the action of the sponsors of this bill was based upon a mere academic consideration of economic, industrial, and labor-management problems, while the opposition of labor—which opposed it—was based upon a practical and experimental knowledge of said problems.

Free collective bargaining and sound labor-management relationship is a large part of the basis upon which a sound national economy rests. When the exercise of this right is denied either to labor or management, by legislation or otherwise, the national economic structure is seriously affected. Labor cannot be reconciled by merely telling it that legislation which it knows to be bad is good for it. Why should labor be denied the right to engage in free collective bargaining and to negotiate an agreement with employers, acceptable and satisfactory to both? The Taft-Hartley law makes it a crime for labor and management to do this. This one feature in the Taft-Hartley law has created widespread bitterness, resentment, and even rebellion among the membership of organized labor throughout the Nation. The resentment of labor in the United States to the Taft-Hartley law is as uncompromising and rigid as was the opposition of our forefathers, the colonists, to Great Britain when it imposed upon them government without representation, and to the working men and women of Great Britain when Parliament passed the Trades Disputes and the Trades Union Act of 1927. Therefore, may I appeal to this committee, to the Members of the Senate and to the Congress of the United States to decisively repeal the Taft-Hartley law in its entirety.

I respectfully supplement this request by urging you on this occasion to reenact the Wagner Act with amendments which would be constructive and acceptable. Such action should provide for a minimum of interference on the part of the Government in management-labor relationships and in collective bargaining.

At a recent meeting of the executive council which was concluded on February 8, careful and analytical consideration was given to each section of Senate bill 249. This was followed by unanimous approval of each section of said bill, including title II—mediation and arbitration—which provides for the reestablishment of the United States Conciliation Service in the Department of Labor. For more than 30 years the Mediation and Conciliation Service was an integral part of the Department of Labor. The Mediation and Conciliation Service made an excellent record during all those years in preventing industrial disputes and in the settlement of industrial controversies through mediation and conciliation. Labor feels that the Department of Labor is really the clearinghouse for industrial problems and is firmly convinced that all agencies having to do with labor problems, labor controversies, and labor-management relations should be located within the Department of Labor. Labor deplored the action taken when the Mediation and Arbitration Service was created as an independent agency. It now appeals to Congress to return it to the Department of Labor.

I assure you, in approving this bill, the executive council was moved by a deep consciousness of its obligations to serve the public interest, to promote labor-management cooperation, and to establish and maintain free collective bargaining, all of which is essential to the preservation and maintenance of a sound national economy. I, therefore, express to this committee and to the Members of the Eighty-first Congress the definite approval of the American Federation of Labor of Senate bill 249 with the following slight amendments which are as follows:

Section 105 of the present bill, pages 4 and 5, purports to eliminate the further exercise of Board and Federal court jurisdiction in all matters in which the jurisdiction of the Board or of the Federal courts has been or could have been invoked under the Taft-Hartley Act, unless jurisdiction in such matters is retained in the Board or Federal courts by the provisions of the present bill.

The language of this section, however, could be made more expressive of this intent to remove liabilities imposed by the Taft-Hartley Act. As written this section bars actions or proceedings under the "National Labor Relations Act, as amended by the Labor-Management Relations Act, 1947" (the Taft-Hartley Act). The Taft-Hartley Act, however, contains five titles. Only title I amended the earlier National Labor Relations Act. Thus, as presently written, the bill would bar only those actions or proceedings authorized under title I of the Taft-Hartley Act. It would not, for example, bar actions or proceedings instituted under titles II and III of the Taft-Hartley Act, such as civil damage suits against labor organizations, injunctions in national emergency cases or criminal prosecutions against labor organizations and their officers for violation of the ban on union contributions and expenditures made in connection with Federal elections. Such damage suits and criminal prosecutions are presently authorized by title III of the Taft-Hartley Act. Injunctions in national emergency cases are presently authorized by title II of that act. I suggest that the provisions of section 105 of the present bill be clarified so as to leave no doubt that not only title I, but titles II and III of the Taft-Hartley Act, are embraced within the language of section 105.

I should like to call the committee's attention to another clarifying change that should be made in section 105 of the present bill. The exact language of this section cancels the jurisdiction only of the Board and Federal courts to entertain certain proceedings authorized by the provisions of the Taft-Hartley Act. Section 303 (a) of the Taft-Hartley Act, however, makes it unlawful for any labor organization to engage in certain types of secondary boycotts and jurisdictional disputes and section 303 (b) authorizes any person injured in his business or property by reason of any violation of section 303 (a) to sue, not only in the Federal courts, but "in any other court having jurisdiction of the parties" (which would seem to include State courts) and to recover damages and the cost of the suit.

Since it appears most likely that section 105 of the present bill intended to foreclose all liability imposed by the Taft-Hartley Act and enforceable in any court, Federal or State, the provisions of this section should be made more definite by express language embracing within its coverage damage suits instituted in State Courts or "in any court having jurisdiction of the parties."

Section 405 of title IV of the present bill, pages 21 and 22, states that the provisions of title II and III of the bill shall not be applicable with respect to any matter which is subject to the provisions of the Railway Labor Act, as amended.

It is quite evident that the sponsors of the present bill, in proposing section 405, were of the opinion that the National Labor Relations Act, as it existed prior to its amendment by title I of the Taft-Hartley Act, eliminated from its coverage individuals employed by an employer subject to the Railway Labor Act. Because of this, and since title I of the present bill is a reenactment of the original National Labor Relations Act, with certain amendments, it was, no doubt, felt unnecessary to extend the proviso of section 405 to title I of the present bill.

The National Labor Relations Act, prior to its amendment by the Taft-Hartley Act, however, did not by any express language exempt from its provisions individuals employed by an employer subject to the Railway Labor Act. Such exemption was, of course, not necessary since the National Labor Relations Act did not contain any unfair labor practices on the part of labor organizations or employees.

It is suggested, therefore, that it be made definite in the present bill that individuals employed by an employer subject to the Railway Labor Act are completely exempted from the coverage of the present bill.

Section 108 of the present bill, pages 10 and 11, makes it an unfair labor practice for "an employer or a labor organization" to terminate or modify a collective bargaining agreement unless a 30-day notice of termination or modification is given to the United States Conciliation Service. The notice required of a labor organization is not notice to an employer, but to a governmental body. Clearly this section is designed to aid and assist the United States Conciliation Service in carrying out the purposes of its being, as set forth in title II of the present bill. That being the case, the severe penalties that may attach to an unfair labor practice should not be made applicable to a failure to give the 30-day notice (which failure, by the way, may be unintentional, but nevertheless punishable). Under the present wording of the section, it might be possible for the Board to order cessation of the strike engaged in without such notice, or to penalize the strikers as by condoning their discharge.

I am of the opinion that the purposes of title II, Mediation and Arbitration, the United States Conciliation Service, of the present bill can best be carried out if section 108 of title I is eliminated entirely as an unfair labor practice and it is made a matter of "public policy" under section 204 of title II of the present bill that a 30-day notice be given of an intention to terminate or modify a collective-bargaining contract. I am certain that labor organizations affiliated with the American Federation of Labor will be happy to cooperate with the United States Conciliation Service by giving this notice and that it is entirely unnecessary to force the giving of this notice by making a failure to do so, an unfair labor practice.

While there is no objection to the requirement that notice be given, it would appear that the possible penalties are entirely too drastic for what might be mere inadvertence. Accordingly, if section 108 is not removed as an unfair labor practice, as suggested, this section should be amended to provide that failure to give such notice shall subject the offender to a cease and desist order requiring only the giving of notices then and in the future.

Concerning myself with the language of section 108, as now written, I believe it needs clarification. It makes it an unfair labor practice "for an employer or

a labor organization" to fail to give the required notice. It thus appears that the penalties of an unfair labor practice will attach to both parties even in a situation where both parties got together and by mutual agreement and without industrial disturbance modified a collective bargaining contract or terminated one by entering into a new agreement, but failed to notify the United States Conciliation Service 30 days beforehand. I doubt very much that the sponsors of the bill desire section 108 to be applicable in such a situation.

Section 204 of the present bill, pages 14 and 15, places a "duty" on employers and employees to exert every "reasonable effort" to make and maintain collective bargaining agreements for definite periods of time concerning (1) rates of pay, hours and terms and conditions of work; (2) adequate notice of desire to terminate or change such agreements; (3) abstention from strikes, lock-outs, or other acts of economic coercion in violation of such agreements; and (4) procedures for the peaceful settlement of disputes involving the interpretation or application of such agreements. It also imposes the "duty" of participating "fully and promptly" in meetings undertaken by the United States Conciliation Service to aid in settling disputes.

The purpose of this section is to encourage the making and maintaining of collective-bargaining agreements containing the four provisions enumerated above and to aid in the settling of labor-management disputes. This is a commendable purpose. Such objective should be sought, however, by the voluntary and cooperative action of parties to collective bargaining agreements. It should not be imposed by Government compulsion.

There is danger that the term "it shall be the duty", appearing in section 204, lines 15 and 16 of page 14 of the bill, might be deemed to make the specified duties mandatory in nature and to authorize injunctions or damage suits in State or even Federal courts in case of failure to perform such duties. This construction would involve the possibility of injunction suits in early stages of negotiations and even a possibility of compulsory arbitration. I do not think that that is the intention of the sponsors of the present bill.

I therefore suggest that the phrase "it shall be the duty of employers and employees and their representatives" be eliminated from section 204 of the present bill and that the first four lines of section 204 (lines 13 to 17 inclusive on p. 14) be redrafted to read that it is the "public policy" of the United States, in order to prevent or minimize labor disputes affecting the free flow of commerce or threatening consequences injurious to the general welfare that employers and employees, and their representatives "should" do the things enumerated in section 204 (a) and (b).

Section 205 of the present bill, pages 15 and 16, states that it is the public policy of the United States that a collective bargaining agreement "shall" provide procedures for the referral of disputes, growing out of the interpretation or application of the agreement, to final and binding arbitration. This section is expressive of public policy only and apparently is not designed to place a mandatory duty upon parties to an agreement to provide therein the procedures mentioned. To make this more certain, I suggest that the word "shall" contained in the third line of this section (line 10, p. 15) be changed to "should."

Sections 301, 302, and 303 of the present bill deal with national emergency work stoppages. I have examined these sections and the other sections of the present bill and am happy to find no language, which in my opinion, provides for the use of injunctions in these emergency work stoppages. My views concerning the use of injunctions in labor disputes are well known. Those I represent are unequivocally and adamantly opposed to their use in such situations and if the present bill contained a provision for the use of injunctive sanctions in these emergency work stoppages, we would oppose it with all the force and vigor at our command.

If these suggestions are adopted and the bill is passed, I believe Congress will have established the foundation for a national labor policy based primarily on faith in the free collective bargaining process as the principal means of achieving industrial peace and economic stability with a minimum of Federal interference or interjection into realms more properly supervised by local authorities. The bill will encourage collective bargaining instead of pretending to do so while actually discouraging collective bargaining and sponsoring individual bargaining as did the Taft-Hartley Act. It was because of this attempt to promote diametrically opposed theories that the Taft-Hartley Act was bound to fail.

I hope that this committee will give serious consideration to the foregoing suggestions. If the chairman or the committee members have any questions, I will be glad to answer them.

LABOR RELATIONS

WEDNESDAY, FEBRUARY 16, 1949

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D. C.

The committee met at 9:30 a. m., pursuant to adjournment, Hon. Elbert D. Thomas (chairman) presiding.

Present: Senators Thomas, Murray, Pepper, Hill, Neely, Humphrey, Withers, Taft, Smith of New Jersey, Morse, and Donnell.

The CHAIRMAN. The committee will be in order. Senator Donnell, please.

STATEMENT OF WILLIAM GREEN—Resumed

Senator DONNELL. Yes. Mr. Green, I would like to ask you a few questions.

Mr. GREEN. Yes, sir.

Senator DONNELL. Did you express a doubt yesterday as to whether there ever would be a Nation-wide strike in any major industry?

Mr. GREEN. I think I expressed doubt that we would reach the point where a strike, a Nation-wide strike, that threatened and impaired the public health and safety, would occur.

Senator DONNELL. Would you think that a Nation-wide strike of the railroads would impair the national health and safety?

Mr. GREEN. I think it would.

Senator DONNELL. You are not testifying that we have had no such strike by the railroads within the last few years, are you?

Mr. GREEN. So far as I understand, there has not been any.

Senator DONNELL. Now, I have before me the statement of A. E. Lyon, executive secretary, Railway Labor Executives Association, before the Joint Committee on Labor-Management Relations on June 8, 1948, and he says this:

Only a few isolated strike situations have developed, on small individual railroads, and in but one case has there been a national strike, and this lasted for only 2 days.

Do you not remember, Mr. Green, the fact that the railways back a couple of years ago, 2 or 3 years ago, did have a national strike for 2 days? You remember that, do you not?

Mr. GREEN. I think that was by the railway trainmen.

Senator DONNELL. Yes, but it tied up the railroads, did it not?

Mr. GREEN. The railway trainmen; I think they had a short strike.

Senator DONNELL. Yes.

Mr. GREEN. But that was only one group of railway employees.

Senator DONNELL. But it had the effect of tying up or substantially tying up all the major railroads in the country for 2 days, did it not?

Mr. GREEN. I do not think it had that effect.

Senator DONNELL. What effect did it have?

Mr. GREEN. The effect of tying up all the major railroads; it did not have that effect. It had the effect of impairing transportation, I will admit that.

Senator DONNELL. And very material impairment of it.

Mr. GREEN. I think, perhaps, it did.

Senator DONNELL. And that certainly threatened the national welfare and health?

Mr. GREEN. No; not for that length of time. Two days would not affect the national safety.

Senator DONNELL. But if it had continued much longer it would have that effect, is that correct? That is correct, is it not?

Mr. GREEN. If it continued for a length of time.

Senator DONNELL. It did continue for 2 days and there is no reason why it might not have continued longer unless it had been settled.

Mr. GREEN. Well, the record shows how long it lasted.

Senator DONNELL. For instance, on Tuesday, June 15, 1948, before this very committee, the Senate Committee on Labor and Public Welfare, there were a number of gentlemen who were present there, as they are here, and I happened to be one of them, and this is a statement of Clifford D. O'Brien, counsel for the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, and Switchmen's Union of North America. You know him, do you not—Mr. O'Brien?

Mr. GREEN. I cannot place him. I know Mr. Johnston who was the head of it.

Senator DONNELL. Alvanley Johnston.

Mr. GREEN. Yes.

Senator DONNELL. Mr. Clifford D. O'Brien is counsel for the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, and Switchmen's Union of North America, and he testified before this very committee, the Committee on Labor and Public Welfare of the Senate, at page 3 of the testimony of June 15, 1948, as follows, and he said:

The Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, and Switchmen had agreed to strike. The President's intervention resulted in the imposition of 2½ cents per hour in lieu of any rule changes on either side, and a moratorium on rule changes for a period of 1 year, but both parties rejected the Erickson Board report. Neither party accepted it before.

Then, this sentence:

The recommendations of that Board were not accepted by the organizations or by the carriers and a brief strike ensued.

Now, you remember that occasion to which Mr. O'Brien refers, do you not?

Mr. GREEN. No; I do not recall.

Senator DONNELL. You do not. Well, there can be no doubt, though, that there did occur a 2-day stoppage such as Mr. O'Brien has referred to in his testimony, can there?

Mr. GREEN. That was just of short duration, and so short that it had very little effect upon the public health, public safety, or even transportation.

Senator DONNELL. You remember that the President of the United States came out with a radio address to the Nation, pointing out the great seriousness and threat to national welfare, and the fact that he proposed to draft people into the Army and operate the railroads? Do you remember that? He called a joint session of Congress which he addressed on that subject.

Mr. GREEN. Yes.

Senator DONNELL. That was in connection with this strike to which I refer.

Mr. GREEN. Yes.

Senator DONNELL. And that certainly was a strike, the very imminence of which was recognized by the President as a threat.

Mr. GREEN. Well, I think the President was unduly alarmed and made a mistake in doing that.

Senator DONNELL. Very well. And the 2-day strike to which you refer, you have no doubt that that extended substantially all over the United States, have you, Mr. Green?

Mr. GREEN. I am not sure that it did, but I know the strike occurred. I can positively state, as you know, Senator, that it had no serious effect upon the public health or safety.

Senator DONNELL. Well, since you refer to what I know, I certainly remember that the fear of the people all over the United States was intense; that the newspapers, the Congress, we were all at what I might term at fever heat of fear and apprehension with respect to the threat to the national welfare.

Mr. GREEN. Well, the facts speak for themselves.

Senator DONNELL. Now, Mr. Green, you mentioned yesterday something with respect to the operation of the Railway Labor Act, and my impression is that you are inclined to the view that some such provision inserted in that act with respect to attempts to stop strikes would be valuable and would not be objected to by you. Am I correct in that?

Mr. GREEN. That is right. We have approved that in my statement and I think it is incorporated in this bill.

Senator DONNELL. Now, I have before me the Fourteenth Annual Report of the National Mediation Board. You know what the National Mediation Board is, of course?

Mr. GREEN. Yes.

Senator DONNELL. That is the Board which operates under the Railway Labor Act, is it not?

Mr. GREEN. I think that is the name of it, the National Mediation Board; yes, sir.

Senator DONNELL. This is the one of which Mr. Frank P. Douglass is chairman.

Mr. GREEN. Yes, sir.

Senator DONNELL. Now, this report which I have before me is transmitted by Mr. Douglass, Frank P. Douglass, Chairman of the National Mediation Board, to the Senate and House of Representatives on November 1, 1948, and he takes up here the various strikes and threatened strikes, and the disposition of them, and points out the outcome, and I am going to ask, Mr. Chairman, that at this point in

the testimony there be inserted pages 1, 2, and that portion of page 3 down to the paragraph headed "Mediation proceedings."

The CHAIRMAN. Without objection, it will be inserted.

(The portions of the Fourteenth Annual Report of the National Mediation Board referred to follow:)

FOURTEENTH ANNUAL REPORT OF THE NATIONAL MEDIATION BOARD

I. SUMMARY AND CONCLUSIONS

1. General

The fiscal year ended June 30, 1948, marks the fourteenth year of the National Mediation Board and the twenty-second year of the Railway Labor Act. The National Mediation Board was created in 1934 by amendments to the original act of 1926. Jurisdiction of the Board, originally confined to common carrier railroads, the express and Pullman companies, was extended to common carriers by air, by amendments approved April 10, 1936.

The era of unsettled labor conditions which has plagued industry generally during the postwar adjustment period has not spared the railroads and airlines. Employees caught in the bind of higher living costs have endeavored to preserve their purchasing power by seeking wage increases. Both rail and airline carriers are regulated industries to the extent that the Government fixes rates from which their revenue is derived and consequently the determined employer resistance to employee demands has resulted in some of the most bitterly contested disputes in the history of the Railway Labor Act. Although threatened strikes have been almost a daily problem among railroad and air-line employees, there have been relatively few instances where procedures of the law were ineffective in settling the disputes and avoiding work stoppages.

This statement should not be interpreted to minimize the seriousness of the few instances where the law failed to prevent interruptions to service. Thus, in the Nation-wide dispute over wages and rules involving railroad engine service employees and yardmen, all of the steps prescribed by the law were exhausted without a settlement being made. After declining to accept recommendations for settlement made by a presidential emergency board the organizations set a strike date for 6 a. m., May 11, 1948. To forestall this action extraordinary measures were invoked to prevent a Nation-wide tie-up in rail transportation. The President issued an Executive order¹ whereby operation of the railroads was taken over by the Secretary of the Army. In taking this action the President called upon every railroad worker to cooperate with the Government by remaining on duty and stated:

"It is essential to the public health and to the public welfare generally that every possible step be taken by the Government to assure to the fullest possible extent continuous and uninterrupted transportation service. A strike on our railroads would be a Nation-wide tragedy, with world-wide repercussions."

Notwithstanding the above action the threatened strike order was not canceled whereup the office of the Attorney General applied to the United States District Court for the District of Columbia for a restraining order. A temporary order was granted on May 10 and, as a result, the threatened strike was called off. Following hearings a preliminary injunction was issued by the court on June 11 and a permanent injunction was issued on July 2, 1948. Although the above procedures were effective in preventing the strike they did not settle the dispute and, as so often happens, it remained for this to be accomplished eventually through mediation. In this instance the mediation was conducted under White House auspices, but in many cases where procedures of the law are used initially without success, mediation has been resumed by the Mediation Board or by emergency boards in bringing the parties to agreement.

In other disputes involving railroad or airline employees during 1948 where strikes were called the public welfare was not so vitally affected as in the national railroad case.

A strike of 18 days by pilots of American Overseas Airlines resulted from an unsettled dispute over hours of service and a grievance issue. Initial mediation was unsuccessful and the parties were not agreeable to submitting their dispute to arbitration. Following these efforts the strike began at 6 a. m., September 30, 1947, and flight operations of the carrier were suspended for 18 days. Through efforts of the Board a truce was effected whereby operations were

¹ Executive Order 9957 of May 10, 1948.

reinstated simultaneously with the resumption of mediation. Where the parties were unwilling to settle their dispute in mediation before the strike, they agreed promptly on terms of settlement when mediation was resumed on October 18, 1947.

Another airline strike involved employees of National Airlines. It began on January 23, 1948, and had not been settled at the time this report went to press. Both prior to and during the stoppage the Board personally and through its mediators endeavored to work out a peaceful settlement of the disputed issues. Involved in the walkout were pilots represented by the Air Line Pilots Association and mechanics and clerical employees represented by the International Association of Machinists. A Presidential emergency board which investigated the dispute recommended a basis for settlement and among other things said the following:

"The Railway Labor Act imposes upon the carrier the duty to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules, and working conditions. This duty is imposed to protect the public from the consequences of interruptions to commerce. By its unilateral actions concerning matters properly the subject of collective bargaining, National Airlines violated the duty imposed upon it by statute. National's persistent and repeated violations of the duties imposed upon it by Congress in the public interest were the major factors in the development of the existing dispute."

Notable among the strikes during 1948 involving railroad employees was a brief work stoppage of the Southern Pacific Co. caused by engineers represented by the Brotherhood of Locomotive Engineers withdrawing from the service on July 21, 1947. The dispute concerned grievances which, under the act are subject to settlement by the First Division of the National Railroad Adjustment Board. However, in view of the threatened strike the members of the National Mediation Board endeavored to compose the dispute through mediation. Failing this the President was informed of the threatened interruption to interstate commerce and he, in turn, issued an Executive order creating an emergency board. Under section 10 of the act such boards are provided 30 days to investigate the dispute and report back to the President. During this period and for 30 days thereafter "no change, except by agreement, shall be made by the parties to the controversy in the conditions out of which the dispute arose." These provisions have been interpreted uniformly to forestall strike action for a total of 60 days where emergency boards are created under section 10. Openly disregarding these provisions, however, the brotherhood withdrew its men from service for about 6 hours during the night of July 21, 1947. Conferences between the carrier and brotherhood resulted in agreement under which the employees returned to work and further strike action was postponed indefinitely.

Another important railway strike involved some 500 employees of the Chicago, North Shore & Milwaukee Railway Co. over failure of the company to grant to employees a wage increase of 15½ cents per hour as recommended by an emergency board on September 2, 1947. The strike began on March 27, 1948, and continued until June 25. During the period some 1,400 employees of the company were thrown out of work and 72,000 patrons were denied their usual transportation service. Settlement was finally effected after persistent efforts by the Board's mediators under conditions which were far from favorable.

Other minor stoppages in railroad transportation during the year involved employees of the Bingham & Garfield Railroad and the Akron & Barberton Belt Railway. Also to be noted among strikes of employees covered by the Railway Labor Act was one by vehicle employees of the Railway Express Agency in New York City represented by the International Brotherhood of Teamsters. The strike was called by local union officers in disregard of the provisions of the law. Eventually, however, these same officers recommended and succeeded in obtaining a resumption in service. Thereafter an agreement was reached in accordance with the provisions of the act.

To place this strike record in proper perspective it should be pointed out that it is matched by 172 peaceful settlements effected through mediation or arbitration. The peaceful settlements do not, however, make up for the instances in which stoppages occurred. It is not a good record and it does not bode well for the future effectiveness of the Railway Labor Act.

Senator DONNELL. I call attention to this concluding paragraph of the report of the National Mediation Board at page 3, where it says:

To place this strike record in proper perspective it should be pointed out that it is matched by 172 peaceful settlements effected through mediation or

arbitration. The peaceful settlements do not, however, make up for the instances in which stoppages occurred.

And then this sentence:

It is not a good record and it does not bode well for the future effectiveness of the Railway Labor Act.

Had you read that in the report of the National Mediation Board?

Mr. GREEN. No; I have never read that, but I do know, and you know, Senator, that the railroad workers of this Nation have made a wonderful record; there have been very few stoppages. Any stoppages that have occurred have been of a local nature or a local character.

Generally speaking, the settlements of the disputes that arises between employers and employees on the railroads have been settled through mediation, conciliation, through the application of a cooling-off period, and through arbitration.

Now, that is the reason why we favor the inclusion in the emergency section of Senate bill 249 of the plan that has proven to be effective on the railroads in the settlement of disputes that arise between employers and employees.

Senator DONNELL. Now, Mr. Green, along the line——

Mr. GREEN. Pardon me, let me finish.

Senator DONNELL. Excuse me.

Mr. GREEN. Now, railroad workers are like other workers. They disagree with their employers in conferences, and then they take a strike vote which leaves the impression among a lot of people who are unfamiliar with policies and procedures in dealing with industrial disputes that there is going to be a strike. It does not mean that; it means that action is taken for pressure purposes, and for letting the employers of the Nation know what the sentiments of the workers are, and the vote shows that, what it is.

Now, that occurs, but then it has in very few instances resulted in strikes.

Senator DONNELL. Along the line of your testimony, may I read to you in this portion of the report to which I have referred, namely, the Fourteenth Annual Report of the National Mediation Board. This is in the same subdivision here, in which it is said:

It is not a good record and it does not bode well for the future effectiveness of the Railway Labor Act.

Here is what I want to read to you:

The era of unsettled labor conditons which has plagued industry generally during the postwar adjustment period has not spared the railroads and air-lines. Employees caught in the bind of higher living costs have endeavored to preserve their purchasing power by seeking wage increases. Both rail and air-line carriers are regulated industries to the extent that the Government fixes rates from which their revenue is derived, and consequently the determined employer resistance to employee demands has resulted in some of the most bitterly contested disputes in the history of the Railway Labor Act. Although—— and this is along the lines you were speaking about——

threatened strikes have been almost a daily problem among railroad and air-lines employees, there have been relatively few instances where procedures of the law were ineffective in settling the disputes and avoiding work stoppages.

That is what you are referring to.

Mr. GREEN. That is right; that is what I emphasized.

Senator DONNELL. Yes; I know you did.
Let us see what the Board says right following that:

This statement should not be interpreted to minimize the seriousness of the few instances where the law failed to prevent interruptions to service. Thus, in the Nation-wide dispute over wages and rules involving railroad engine service employees and yardmen, all of these steps prescribed by the law were exhausted without a settlement being made. After declining to accept recommendations for settlement made by a Presidential emergency board, the organizations set a strike date for 6 a. m., May 11, 1948. To forestall this action extraordinary measures were invoked to prevent a Nation-wide tie-up in rail transportation. The President issued an Executive order whereby operation of the railroads was taken over by the Secretary of the Army. In taking this action the President called upon every railroad worker to cooperate with the Government by remaining on duty and stated:

"It is essential to the public health and to the public welfare generally that every possible step be taken by the Government to assure to the fullest possible extent continuous and uninterrupted transportation service. A strike on our railroads would be a Nation-wide tragedy, with world-wide repercussions."

Then the report continues:

Notwithstanding the above action—

that is, the action by the President—

the threatened strike order was not cancelled, whereupon the office of the Attorney General applied to the United States District Court for the District of Columbia for a restraining order. A temporary order was granted on May 10 and, as a result, the threatened strike was called off. Following hearings, a preliminary injunction was issued by the court on June 11 and a permanent injunction was issued on July 2, 1948. Although the above procedures were effective in preventing the strike, they did not settle the dispute and, as so often happens, it remained for this to be accomplished eventually through mediation. In this instance the mediation was conducted under White House auspices, but in many cases where procedures of the law are used initially without success, mediation has been resumed by the Mediation Board or by emergency boards in bringing the parties to agreement.

Now, may I call your attention, Mr. Green, to just a little further on here in this report, where it says:

In other disputes involving railroad or air-line employees during 1948 where strikes were called, the public welfare was not so vitally affected as in the national railroad case.

The writer speaks further, and he says:

A strike of 18 days by pilots of American Overseas Airlines resulted from an unsettled dispute over hours of service and a grievance issue.

Then, it tells about finally their agreeing upon terms of settlement—I will not read it, unless you want me to.

Then, it says:

Another air-line strike involved employees of National Airlines. It began on January 23, 1948, and had not been settled at the time this report went to press.

I do not know what time it went to press, but the letter of transmittal was November 1, 1948, and it is for the fiscal year ended June 30, 1948, so I judge, Mr. Green, that this book did not go to press until after June 30, 1948, maybe considerably afterwards, and the writer of the report says that the air-line strike began on January 23, 1948, and had not been settled at the time the report went to press.

Then, it drops on down here, a little further, and states:

Notably among the strikes during 1948 involving railroad employees was a brief work stoppage of the Southern Pacific Co. caused by engineers represented

by the Brotherhood of Locomotive Engineers withdrawing from the service on July 21, 1947.

Then, it continues:

Openly disregarding these provisions, however, the brotherhood withdrew its men from service for about 6 hours during the night of July 21, 1947.

When it talks about "these provisions," they mean the provisions of the law, the Railway Labor Act.

Then, it drops on down, and it states:

Another important railway strike involved some 500 employees of the Chicago, North Shore & Milwaukee Railway Co. over failure of the company to grant the employees a wage increase—

and so forth.

The strike began on March 27, 1948, and continued until June 25.

That would be 3 months, lacking 2 days.

During the period some 1,400 employees of the company were thrown out of work and 72,000 patrons were denied their usual transportation service. Settlement was finally effected after persistent efforts by the Board's mediators under conditions which were far from favorable.

Other minor stoppages in railroad transportation during the year involved employees of the Bingham & Garfield Railroad and the Akron & Barberton Belt Railway. Also to be noted among strikes of employees covered by the Railway Labor Act was one by vehicle employees of the Railway Express Agency in New York City represented by the International Brotherhood of Teamsters.

Now, is it strange, then, Mr. Green, in your mind, that this report of the National Mediation Board for the year ending June 30, 1948, and transmitted only a few months ago, November 1, 1948, should conclude with these words—

To place this strike record in proper perspective, it should be pointed out that it is matched by 172 peaceful settlements effected through mediation or arbitration. The peaceful settlements do not, however, make up for the instances in which stoppages occurred. It is not a good record, and it does not bode well for the future effectiveness of the Railway Labor Act.

Is that an unreasonable conclusion from the report which I have given you?

MR. GREEN. Well, Senator, I know about the air-line strike, that it was inconsequential. It has been in effect for a long time. It was a strike of air-line pilots, and nobody has suffered; the public safety has never been menaced even to the slightest degree, as a result of that strike. It was just that one—the pilots employed on that one air line, and it has had no effect upon our economy, upon our national safety.

Now, I am confident that had I known you were going to bring the railway situation to the attention of the committee this morning, I could have gotten statements from members of the Mediation Board on the railroads and others who would praise the record that has been made by the railroad workers of the country.

Of course, strike votes have been taken, and definite dates fixed when a strike would occur. But that is in line with the procedure followed in order to bring influence, may I put it that way, upon the railroad magnates to sit around the conference table and give in, not assume a rigid, inflexible position but to find a basis of accommodation and a settlement of the differences.

These local strikes that have occurred, I cannot recall myself of any ill effect that followed these strikes, but they are human beings, the same as we are, conscious of their rights as American citizens to give

their labor and withhold it at will. That is a fundamental right that the individual in America enjoys.

But we do not mean by that that we should close our eyes to the seriousness of the situation when the national safety or the welfare of the country is menaced by a strike of transportation workers or others.

Now, that is my position. But I still maintain, Senator, that the record shown by the railroad workers of the Nation and the railroad managers is excellent, taking all into account and on the over-all consideration of it.

Over the years there has been no general stoppage of people employed on the railroads of the country to the point where the national safety was involved.

Senator DONNELL. Mr. Green, do you agree with the observation of the President of the United States in his Executive order of May 10, 1948, quoted in this record from which I read, that:

It is essential to the public health and to the public welfare generally that every possible step be taken by the Government to assure to the fullest possible extent continuous and uninterrupted transportation service. A strike on our railroad would be a Nation-wide tragedy, with world-wide repercussions.

Mr. GREEN. I agreed with that statement.

Senator DONNELL. And you recall, Mr. Green, as I read a little while ago—

Mr. GREEN. I am in accord with that; there is no argument about that at all.

Senator DONNELL. I read, and I am going to come to this matter of injunctions—you recall that the President of the United States found, after he had issued his Executive order, after he had caused the railroads to be taken over by the Secretary of the Army, as the Board here says, and I read:

Notwithstanding the above action the threatened strike order was not canceled—

In other words, they did not obey the Executive order, did not obey the Secretary of the Army, and then the President proceeded under what is provided by the Constitution of the United States as the method of administering equity and law, and secured an injunction.

Now, do you think that the securing of that injunction was of value to the people of this country?

Mr. GREEN. I think that the same result that was finally achieved could have been achieved through his influence as President of the United States without resort to the use of the injunction. That is my own judgment, and you can differ with me.

Senator DONNELL. His influence did not show up very strongly when this Executive order that I read to you was issued, did it? He had to go into the court, because, as the writer of this report says, "Notwithstanding the above action the threatened strike order was not canceled," and the injunction can, and in that case did, serve a highly useful purpose for this Nation in preventing what President Truman said "would be a Nation-wide tragedy, with world-wide repercussions."

Do you not agree to that?

Mr. GREEN. It is my judgment that no strike would have occurred anyhow.

Senator DONNELL. Now, Mr. Green, mention was made yesterday of the coal mines. I am not going into all the details of the coal miners'

strike, but I call to your attention as to whether or not there have been any strikes threatening the national welfare, and I want to call your attention to the language of the Supreme Court of the United States in the Mine Workers case, 330 U. S. 267, where it says:

A gradual walkout by the miners commenced on November 18—that would be November 18, 1946—

and by midnight November 20, consistent with the miners' no-contract-no-work policy, a full-blown strike was in progress.

And then this sentence:

Mines furnishing the major part of the Nation's bituminous coal production were idle.

You remember those circumstances, do you not?

Mr. GREEN. I do.

Senator DONNELL. Now, I also call to your attention the observations in the oral opinion of Mr. Justice Goldsborough in a case which has been called to my attention, 21 L. R. M., 2721, Local Citation 2723, which refers to the coal miners' strike in 1948. And just to show something of the size of that strike, may I read this observaiton of the court. It is referring to a letter that went out from Mr. Lewis, and it says:

That letter dated March 12, and which, I suppose, went out at that time, was received on March 13, maybe sometime a little later, on the 14th; was followed immediately on the 15th, I think it was, by a walkout of some 350,000 to 400,000 miners in the bituminous coal mines, 87 percent of whom, according to testimony here, were members of the United Mine Workers Union.

You remember about that walkout of this great number of 350,000 to 400,000 miners, do you not?

Mr. GREEN. Yes, sir; I recall that.

Senator DONNELL. You would not call that a minor strike, would you? I mean minor, m-i-n-o-r. Would you? [Laughter.]

Mr. GREEN. The strike of those employes in the mines of the Nation?

Senator DONNELL. Yes, and would you not regard that as of serious import and threatening the national welfare to have a strike of 350,000 to 450,000 miners?

Mr. GREEN. If it would last long enough.

Senator DONNELL. I beg pardon?

Mr. GREEN. If it would last long enough to reduce the amount of coal available for public use to the point where it wiped out—

Senator DONNELL. Yes.

Mr. GREEN. That would be serious. But let me tell you, Senator, you tried to fix the responsibility for these strikes and you blame the men who work in the mines for the strikes, the strikes when they occur, and the leaders of their union. But you fail to take into account that the one group connected with mining operations that could prevent a strike seem to disregard their obligations and public duties, and they are the owners of the mines.

What does the record show? The record shows that notwithstanding this powerful Government coming to the support of the coal operators by making—

Senator DONNELL. By injunction.

Mr. GREEN. Application for injunction—

Senator DONNELL. And the securing of injunctions.

MR. GREEN. And so forth, and so forth, and so on——

Senator DONNELL. Yes.

MR. GREEN. And the Government stood by them, it is assumed that this Government is powerful enough when it lines up with the owners of industry to defeat the miners. They are a powerful force. That powerful force added to the powerful force of the employers ought to do it. But notwithstanding that, these coal operators eventually, with the Government standing by them, gave the miners what they asked for in the first place. Why didn't they do it and help avoid the strike? Why didn't they make their contribution? The miners got everything they asked for, and that could have been given before the strike occurred. The coal operators of the Nation could have prevented that tragic thing. What are you going to do about that? How are you going to deal with it when employers assume a rigid, inflexible position up to a certain point, and then say: "Here it is." They gave them their increase in wages; they gave them their pension funds; they gave them everything they ever asked for after the Government had stood up with the employers of the Nation and placed all the resources of Government, including the courts, at the disposal of the coal owners of the Nation.

Senator DONNELL. Now, Mr. Green——

MR. GREEN. Pardon me. Did you ever think of doing anything about incorporating anything in a law that would compel the owners to measure up to the requirements of the situation and help prevent a national tragedy? I have not seen anything in any statute of that kind.

Senator DONNELL. Now, Mr. Green, let me mention one thing to you in response to the very powerful and eloquent statement that you made, and I mean that in sincerity.

MR. GREEN. I am stating facts.

Senator DONNELL. I know you are giving me what you think is correct and giving it from a wealth of experience. But let me mention this: You have talked about management, on the one hand, the owners on the one hand; you have been talking about labor on the other hand. I have not heard you say anything in the last few minutes about the interests of another group of people, 140,000,000 people, the interests of the public.

Now, here is a situation in which there is a dispute between labor, on the one hand, and management, on the other. Maybe one is right; maybe the other is right. I cannot tell; I cannot analyze the statement that you made about the coal miners getting all that they may have asked for, without an intensive study of the facts. I have not made the study. You may be quite correct. I am not questioning the veracity of the statement. But we are here confronted with a situation in one case, the railroad case, where every hospital, where every mother who needed medicine for her baby, every one of our population was directly affected, and management and labor could not agree—they would not agree—and although the President, in the case of the railroad strike, issued what? This Executive order that I have referred to, and had taken possession of the railroads. Still, as the report that I have read to you says, "The strike order was not canceled."

Now, there is the situation in which the public, this third interest, which to my mind has a right to be considered—there is where their interests are concerned; and the point I am making is this, that in the

two cases, the coal miners' case and the railroad strike case to which I have referred, after all other efforts had failed, then it was necessary for the courts to be resorted to, and the courts were resorted to, and, finally, after a contempt of court having been committed in the case of the coal mine strike by Mr. Lewis and two tremendous fines having been imposed upon him, upon the union, and a fine likewise having been imposed on him individually, the courts were effective in preventing the strike, and in safeguarding public interests.

Now, that is the point that I think we cannot overlook. We cannot overlook the interests of the public, and the point I am making is—if I may just finish that observation—that in every one of these cases that I have referred to, where the public interest was not being safeguarded, where labor and management on the converse sides were fighting against one another, were failing to agree with one another, the courts were the ultimate power which could deal with the situation.

Mr. GREEN. The courts accomplished nothing. Let me tell you that.

Senator DONNELL. They stopped the railroad strike, did they not; and they stopped the miners' strike, did they not?

Mr. GREEN. They did not mine a single pound of coal. The miners went back to work when the operators gave them what they were asking for. It was not the injunction.

Senator DONNELL. Was the railroad strike stopped by the injunction?

Mr. GREEN. Senator, you have raised a question here that I am not familiar with. I cannot recall. You made a study, I see, or your assistant has gone into the records.

Senator DONNELL. I will say that Mr. Shroyer here has presented me with this information this morning, in large part.

Mr. GREEN. But I do know that in the miners' case the injunction had no effect. The miners stood like a stone wall even though their leader was to go to jail or to be punished, and that is the reason why in injunctions, they won't work. You cannot make men go into a coal mine even though you issue an injunction that they will be punished. They went to work; they returned to work when the coal operators met their patriotic, may I say, duty, and that was to give them what they were asking for. They could have done that in the first place and avoided the strike.

Now, let me emphasize this fact——

Senator DONNELL. Yes.

Mr. GREEN. That as an American citizen, not as a member of a union, but as an American citizen, I will do everything in my power that I can to prevent Nation-wide strikes that threaten the public safety and the public welfare.

Senator DONNELL. Mr. Green, may I interrupt to say that I appreciate your statement on that. I think the general public will greatly appreciate it. It is a valuable statement, and I am glad that you made it.

Mr. GREEN. It is a situation that should be avoided. I would agree with that, and that is the reason why we have agreed to the process provided for in this Senate bill, which provides for arbitration, conciliation, cooling-off periods, the use of every known voluntary method.

Senator DONNELL. But not the injunction.

Mr. GREEN. To prevent strikes. Not injunctions, because they do not work.

Will you agree with me that the injunction had no effect on the coal strike?

Senator DONNELL. I would not agree with that because I am not posted on the facts.

Mr. GREEN. Well, look at the facts.

Senator DONNELL. You may be thoroughly correct, or you may not, I do not know; and I say that very respectfully.

Mr. GREEN. They were still on strike when the leader of the miners was supposed to go to jail, and if they could put him in jail, say, they would have stood there like the rock of Gibraltar and never moved.

Senator DONNELL. I will say this to you, Mr. Green, that regardless of the coal miners' strike, and I defer tentatively to your statement on that, because I have not studied the facts in regard to the settlement, but with respect to the railroad strike, it is mentioned in this report of the National Mediation Board, and I observed this language, "A temporary order"—that is a temporary order of injunction is what it means—"was granted on May 10 and, as a result, the threatened strike was called off."

I say there is a showing where the injunction did bring a result.

Mr. GREEN. I must admit that I am not in a position to discuss that with you because I do not recall it and recall the details. I have not gone into that. Senator, and I will have to learn more about it.

Senator DONNELL. Yes.

Now, Mr. Green, I know your position with respect to injunctions. You have made that very clear. Indeed you say this in your statement:

My views concerning the use of injunctions in labor disputes are well known. Those I represent are unequivocally and adamantly opposed to their use in such situations and if the present bill contained a provision for the use of injunctive sanctions in these emergency work stoppages, we would oppose it with all the force and vigor at our command.

That is your view; that is your opinion.

Mr. GREEN. That is right, stated positively and frankly.

Senator DONNELL. Now, Mr. Herzog, the Chairman of the National Labor Relations Board testified here the other day. I do not have his testimony just at hand, but in substance he advised that in this labor legislation we should, and I am quoting him almost verbatim, "avoid the smell of the courts." Did you read his testimony to that effect?

Mr. GREEN. I am sorry, I did not.

Senator DONNELL. Well, that was substantially correct.

Mr. GREEN. Yes.

Senator DONNELL. Now, you also referred in your testimony to the "tyranny of government." You remember your mention of that yesterday, "the tyranny of government"?

Mr. GREEN. Yes.

Senator DONNELL. And there is "resentment on the part of labor to the tyranny of government." Let me just ask you a question. I will not belabor this point in detail, but the Government of the United States consists of three branches, does it not, the legislative, that is our branch here, the executive, and the judicial?

Mr. GREEN. Yes.

Senator DONNELL. In the first place, therefore, the courts are a part of the Government. There is no question about that, is there?

Mr. GREEN. That is right.

Senator DONNELL. And it is provided in article III of the Constitution, is it not, that the judicial power shall extend to what?

To all cases—

I am reading from the Constitution—it does not say part of the cases—to all cases in law and equity arising under this Constitution, the laws of the United States and treaties made or which shall be made under their authority.

There is nothing in the words “all cases” that exempts labor disputes from the operation of courts of equity, is there, in the Constitution?

Mr. GREEN. What does the Norris-LaGuardia Act say?

Senator DONNELL. The Norris-LaGuardia Act is an act of the United States.

Mr. GREEN. Yes.

Senator DONNELL. This is the law that was enacted under the Constitution.

Mr. GREEN. That was passed by the legislative body of our country.

Senator DONNELL. The legislative branch passed the Norris-LaGuardia Act, and I think properly, but the point I am making is that the judicial power “shall extend to all cases in law and equity,” and there are no exceptions made in the Constitution.

Mr. GREEN. Yes.

Senator DONNELL. In what kind of a court is it that the injunction is issued? A court of law or a court of equity? You know, as a matter of fact, that it is a court of equity. I mean, within the meaning of the Constitution. I mean it is a court of equity.

Mr. GREEN. A court of equity.

Senator DONNELL. Yes.

Now, Mr. Green, you say that you object—

Mr. Chairman, it is very annoying to have two of our eminent Members conversing, and there is a constant buzzing, which interferes, at least, with my processes of thought, and I would appreciate it if they would let me continue.

You referred yesterday to too much government, and you mentioned that the labor people are opposed to too much government. They want more of—

Mr. GREEN. In private affairs.

Senator DONNELL. Yes, in private affairs.

Mr. GREEN. Yes.

Senator DONNELL. Now, Mr. Green, you have objected this morning and yesterday, and in your statement here you have objected to judicial interference, that is, interference by one of the three branches of Government, the judiciary, because you objected to the injunctive procedure, and now you are in here objecting, as I understand it, to the legislative interference. You do not want any statutes passed here which say that it shall be the duty of labor to bargain collectively, for illustration.

Mr. GREEN. We do not want a law like the Taft-Hartley law. I said we are here favoring a law.

Senator DONNELL. Very well, but you are in here today, as I understand it in the first place, objecting to judicial interference and, in the

second place, you are objecting to legislative interference of the type, at any rate, that is in the Taft-Hartley law.

Mr. GREEN. Well, do not place me in a wrong position.

Senator DONNELL. I do not mean to. You recognize the right of Congress, I appreciate that.

Mr. GREEN. Let me make it plain, Senator.

Senator DONNELL. Very well.

Mr. GREEN. Very frankly, and this is my feeling.

Senator DONNELL. Yes.

Mr. GREEN. We are opposed to the use of injunctions in a labor-management relationship because time and experience have shown that it does not work.

Senator DONNELL. Yes.

Mr. GREEN. That it is not in the public interest.

Senator DONNELL. Yes.

Mr. GREEN. That it operates against the public interest.

Senator DONNELL. Yes.

Mr. GREEN. And as a result of it, crystallized public sentiment supported the enactment of the Norris-LaGuardia Act which provided that no injunction should be issued in labor disputes except, so forth and so forth and so on.

Senator DONNELL. Yes.

Mr. GREEN. And experience has shown that that was wise legislation. Now there you are on the injunction.

Senator DONNELL. Yes.

Mr. GREEN. Now, secondly, on labor legislation that you referred to——

Senator DONNELL. Yes.

Mr. GREEN. We are willing that this bill which deals with the real problems that have caused irritation between employers and employees, and between management, employees, and the public, and that is jurisdictional disputes, secondary boycotts, and the emergency——

Senator DONNELL. Yes.

Mr. GREEN. If we are willing to go as far as this committee has set forth in this measure, isn't that demonstrating that we are willing that reasonable legislation, practical legislation, legislation that will work, and that will be supported by labor should be passed?

Senator DONNELL. I do not mean——

Mr. GREEN. There is an answer to your two questions that I do not want injunctions or legislation.

Senator DONNELL. Yes, Mr. Green. I think I should say, and if I in the slightest inferred anything to the contrary, certainly I do not want it to be uncorrected. What I mean to say with respect to your attitude on legislation is not that you dispute the right of Congress to legislate. I do not mean that at all.

Mr. GREEN. That is right.

Senator DONNELL. But I do mean to say that you do object to legislative interference with respect to various subject matters; for instance, the matter of the obligation of labor to bargain collectively.

Mr. GREEN. Yes.

Senator DONNELL. You object to putting that into the law. You say you do not want the legislative department of our Government to meddle in that, that that is something that the labor unions are formed to do themselves; and that you do not want any statute passed on that.

Now, I do not mean to say at all, Mr. Green, that you defy Congress or say that Congress has not the power to act. I do not mean that, and I want that perfectly clear, and if what I said was subject to that construction, I certainly want to correct it and do correct it now.

Mr. GREEN. All right.

Senator DONNELL. But you have taken up various matters in this bill, and I am coming to some of them in a little while, in which I understand that you think that legislative interference should not be had, but that individuals, labor, on the one hand, and management, on the other, should be allowed to work it out independently of legislative interposition.

Mr. GREEN. Well, Senator, don't employers of the Nation and owners of industry make the same demand, less interference by Government?

Senator DONNELL. Yes.

Mr. GREEN. In our business?

Senator DONNELL. Yes, sir; and I may say that I am one of those, I think, who share the view that Government should not interfere unless it is necessary to public welfare. But I also share the view that in this matter of labor legislation that experience has shown that public welfare does demand interposition by the legislative branch of our Government, and the judicial branch of our Government, and I am not ashamed to be put on record as saying that I favor leaving the courts with authority to issue injunctions as provided in the Taft-Hartley Act.

Mr. GREEN. I have always so understood.

Senator DONNELL. There may be some room here or there for some minor changes, I am not questioning that. That is possibly true. I do not think of any for the moment on that phase of it, but on the broad general principle, on the matter of injunctions against national emergency strikes, I take it that if we had not had the provision of the law with respect to the injunction, had not had the injunction issued by the court in the case that I have read here, the railway strike, that we would have had the strike, at least the President thought so, and apparently was impressed with the fact that it would be a Nation-wide tragedy, with world-wide repercussions.

Now, Mr. Green, you mentioned something a moment ago that I am pleased you mentioned, because I think it gives an opportunity to ask you a question or two that I trust we will agree on.

You spoke about jurisdictional strikes, that you are perfectly willing have the bill contain a reference to jurisdictional strikes, that is, the reference which is contained in the pending bill.

Mr. GREEN. Yes.

Senator DONNELL. I wanted to ask you, Mr. Green, whether it is in your judgment a fact that jurisdictional strikes were almost entirely—jurisdictional disputes, I should say——

Mr. GREEN. Jurisdictional disputes.

Senator DONNELL. Were almost entirely in building trades, is that correct?

Mr. GREEN. Well, I think that the larger percentage of them develop in the building and construction trades.

Senator DONNELL. The building and construction trades.

Mr. GREEN. That is because of skill and training.

Senator DONNELL. Yes.

Mr. GREEN. One group will claim this work belongs to them and another group will claim that it belongs to them.

Senator DONNELL. Yes.

Mr. GREEN. It involves skill.

Senator DONNELL. Yes.

Mr. GREEN. And training.

Senator DONNELL. Yes.

Mr. GREEN. This is our work, is what we say, and the other says "This is our work."

Senator DONNELL. Now, the building trades of the construction industries are largely in the A. F. of L., are they not?

Mr. GREEN. That is it.

Senator DONNELL. Are there very many of them in the CIO?

Mr. GREEN. Some, yes.

Senator DONNELL. Some. But the major portion of the building and construction trades are in the A. F. of L.?

Mr. GREEN. Yes, oh yes.

Senator DONNELL. I want to read a few words here, if I may, from the report filed December 31, 1948, by the Joint Committee on Labor-Management Relations of the United States Senate which, I think, is quite significant and does no discredit to the American Federation of Labor by any means. It says this:

The agreement entered into on May 1, 1948, by the building and construction trades department of the A. F. of L., the Associated General Contractors of America, and various employer associations creates a board of trustees and a joint board with the unions and the employers accorded equal representation on each. Jurisdictional disputes may be referred to the joint board by any of the unions involved in the dispute, the employer directly affected, or by the organization representing that employer.

It says down here:

The committee commends the building trades unions and the contractor associations for their efforts, which have already been well rewarded. They have demonstrated that in the field of labor-management relations it is the function of the law to define the boundaries and the responsibility of the parties to each agreement within those boundaries.

Do you think what I have read is a fair statement of this very fine agreement that has been entered into in its operations?

Mr. GREEN. Yes; I think that covers it pretty accurately.

Senator DONNELL. I have no doubt it does.

Now, I want to ask you also whether you think that the provisions of the Taft-Hartley Act, section 8 (b) (4) (D), which refer to jurisdictional strikes, and make jurisdictional strikes in nontechnical language, make them unfair labor practices, whether or not that provision of the Taft-Hartley Act has contributed to and has encouraged the making of this agreement of May 1, 1948, and whether you regard the provision that I have mentioned in the Taft-Hartley Act to be a wholesome one and well borne out by the history that I have just recited?

Mr. GREEN. Well, I am not in a position to answer that. I cannot, of course, accurately answer your question as to whether or not that section in the Taft-Hartley bill which you have quoted, had influenced the contractors and the employees in the building and construction industry to work out an agreement such as is reported upon in the statement you just read.

But I do know this: that leaders of the building trades organizations affiliated with the American Federation of Labor, have for an extended, long period of time, devoted their time and service to the settlement of jurisdictional disputes through peaceful means.

This agreement reported upon was not the outcome of a day's thought or a week's thought. It is the outcome of years of effort, the exercise of patience and judgment in composing differences and bringing them to the point where they agreed to the setting up of a court, practically a court, an agency, to which jurisdictional disputes were referred for final settlement, rather than to resort to strikes to enforce their demands.

Senator DONNELL. Yes, sir.

Mr. GREEN. It is experimental; it is working to a very large extent, so far as my information is concerned. It needs to be perfected still more, and then, at the same time, you must remember that we are living in an imperfect world. Men are not perfect; they are human, influenced by selfish interests, and it is the most difficult job in the world to bring men of that type and character into an agreement where their interests clash.

Our people deserve a great deal of credit for the wonderful effort they are putting forth to find a basis of accommodation upon which they can establish the settlement of jurisdictional disputes.

Senator DONNELL. Mr. Green, have your people, I mean by that the American Federation of Labor, have they, so far as you have known, issued any criticism at all against that provision of the Taft-Hartley Act which relates to jurisdictional disputes, aside from the injunctive features—I will leave that out for the moment?

Mr. GREEN. Well, I know of no direct criticism of that one section of the Taft-Hartley bill, but the building trades people occupy the same position as we do, that the bill as a whole is objectionable.

Senator DONNELL. I understand. Your view is as to the bill as a whole, but I was asking you particularly about this portion of it relating to the jurisdictional strikes.

Mr. GREEN. Yes.

Senator DONNELL. Now, the committee, I may call to your attention, says this:

The committee is happy to report that the history of this section during its 17 months' existence has not been one of Board hearings and orders. The Board has yet to decide a jurisdictional dispute. Formal action has been initiated in three cases.

Then it tells how the thing was worked out, and in one case here it mentioned a temporary restraining order. In another case it speaks of a hearing, by the Board, of oral arguments, and so forth, but it finally goes ahead and speaks of jurisdictional disputes in this way:

Jurisdictional disputes and strikes in support of such disputes have plagued the building and construction industry for many years. They have been injurious to employers, the workers involved, and the public. No labor leader has attempted to defend them.

That is true, is it not, that "No labor leader has attempted to defend them"—jurisdictional strikes?

Mr. GREEN. What is that?

Senator DONNELL. Is the committee correct in saying that no labor leader has attempted to defend jurisdictional strikes?

Mr. GREEN. We regard them as a serious problem, and one that we deplore.

Senator DONNELL. Yes; you deplore it. All right.

The committee says:

No labor leader has attempted to defend them, and all agree that they can best be settled by agreement among the unions involved. In past years labor organizations have agreed upon plans for the settlement of such disputes but such agreements have been ineffectual when one of the disputants refused to accept the decision for settlement.

Now, may I say, Mr. Green, with respect further to this matter of jurisdictional disputes, that the bill that you favor now does not contain any sanctions at all except, I believe, making provision for a cease-and-desist order by the Board, which is a long process, whereas the Taft-Hartley Act does contain these sanctions. It contains these remedies, and I quote from the Joint Labor Committee report, where it says:

The remedies provided by the act for a violation of the prohibition of jurisdictional strikes are the usual cease-and-desist order of the Board, an action for damages to the injured party under section 303, and a temporary injunction similar to that obtainable in secondary boycott cases in situations where such relief is appropriate. The procedure adopted by the Board pursuant to section 10 (k) is to give the parties 10 days after the filing of the charge to adjust the dispute; and, upon their failure to agree, a hearing is held before a trial examiner.

But, you will observe, Mr. Green, what I previously said about the happiness of the committee to report with respect to the history of the section.

Mr. GREEN. Is that the quotation from the Taft-Hartley law?

Senator DONNELL. I beg pardon? No; this is from the Labor-Management report.

Mr. GREEN. Let me tell you, I requested Senator Thomas to permit the president of the building trades department of the American Federation of Labor to bring to this committee some very enlightening and helpful facts——

Senator DONNELL. Yes.

Mr. GREEN. In connection with this.

Senator DONNELL. Yes, sir.

Mr. GREEN. Mr. Gray of the department, he can tell you more than I can, because he lives with it every day, and he has assembled the facts and showed how the Taft-Hartley law that you have referred to has operated in dealing with building and construction trade problems, and I hope that he can be here to tell you, and you will get the facts from him.

Senator DONNELL. Well, we will be very happy to have them, Mr. Green, and we appreciate your mentioning it to us. I recall your mention of it yesterday.

Now, Mr. Green, I wanted to go to one matter that Senator Morse referred to yesterday in his examination of you and I am referring now to this matter of the question as to what, if anything, the American Federation of Labor or Labor's League for Political Education, which is described in an Associated Press dispatch quoted on the floor of the Senate by myself a few days ago, as the American Federation of Labor's political arm. I say I want to inquire something about what, if any, action either the American Federation of Labor or that

labor's league has done or has taken or is contemplating with respect to the payment of money to members of State legislatures.

In the first place, I want to ask you this: The executive council of the American Federation of Labor recently held a meeting down in Miami, Fla., did it not?

Mr. GREEN. That is right.

Senator DONNELL. What is the total membership of that executive council of the American Federation of Labor?

Mr. GREEN. Fifteen.

Senator DONNELL. Fifteen members of the executive council. Labor's League for Political Action was formed when?

Mr. GREEN. It was formed, I think, during the last election campaign.

Senator DONNELL. That would be in 1948?

Mr. GREEN. Yes.

Senator DONNELL. Who formed it?

Mr. GREEN. The American Federation of Labor.

Senator DONNELL. The American Federation of Labor. Was that done through the action of the executive council or the convention of the American Federation of Labor?

Mr. GREEN. Convention of the American Federation of Labor at Cincinnati.

Senator DONNELL. Cincinnati.

Mr. GREEN. Directed us to create such an organization.

Senator DONNELL. Yes; and it was created; that is correct?

Mr. GREEN. That is correct.

Senator DONNELL. In the campaign, you say. Is there a committee of the Labor League for Political Education known as the administrative committee?

Mr. GREEN. Yes.

Senator DONNELL. How many members does it have?

Mr. GREEN. I think there are about 20.

Senator DONNELL. About 20 members. Are any of the members of the American Federation of Labor's executive council also on the administrative committee of the Labor League for Political Education?

Mr. GREEN. Yes, sir.

Senator DONNELL. How many members of the executive council of the American Federation of Labor are on the administrative committee of the Labor League for Political Education?

Mr. GREEN. I could not tell you at the moment, probably four or five.

Senator DONNELL. Four or five. Are you on it?

Mr. GREEN. Yes, sir.

Senator DONNELL. You are on the—

Mr. GREEN. I am the chairman of the committee.

Senator DONNELL. You are chairman of the administrative committee of the Labor League for Political Education?

Mr. GREEN. That is right.

Senator DONNELL. And have been since the beginning of that labor league, is that right?

Mr. GREEN. That is right.

Senator DONNELL. Who else from the—you are also, of course, on the executive council of the American Federation of Labor, and are the chairman of that; is that right?

Mr. GREEN. Chairman of the executive council.

Senator DONNELL. Yes; and you are the president of the American Federation of Labor?

Mr. GREEN. I think so. It is my understanding. [Laughter.]

Senator DONNELL. I want to get your correct designation with respect to your official capacity.

Mr. GREEN. Yes, sir.

Senator DONNELL. Who else is there on the executive council of the American Federation of Labor who is on the administrative committee of the Labor League for Political Education?

Mr. GREEN. I think Mr. George Harrison is on that committee.

Senator DONNELL. Pardon me just a minute. Mr. George Harrison is the chairman of the Labor League's department of political direction, is he not?

Mr. GREEN. I forget just what it is. But his official capacity is president of the Brotherhood of Railway Clerks international union.

Senator DONNELL. But I mean to say, in the Labor League: I wanted to get his official capacity.

Mr. GREEN. I forget what committee, if any, he is on.

Senator DONNELL. He does actively participate, though, in the affairs of the league?

Mr. GREEN. He attends the meetings and participates in the deliberations.

Senator DONNELL. I beg pardon?

Mr. GREEN. He attends the meetings and participates in the deliberations of the administrative committee.

Senator DONNELL. Yes, and Mr. Harrison is the vice president of the American Federation of Labor; is that right?

Mr. GREEN. Yes.

Senator DONNELL. Do you have more than one vice president?

Mr. GREEN. Oh, the members of the council are all classified as vice presidents. They are classified first, second, third, fourth, fifth, sixth, and so forth.

Senator DONNELL. Is he the first vice president—Mr. George Harrison?

Mr. GREEN. No.

Senator DONNELL. What vice president is he?

Mr. GREEN. Mr. Hutcheson is the first vice president.

Senator DONNELL. Is Mr. Hutcheson on the administrative committee of the labor league?

Mr. GREEN. No, sir.

Senator DONNELL. What vice president is Mr. Harrison? By the way, how far down the line is he, as vice president of the American Federation of Labor, I mean?

Mr. GREEN. I think Mr. MacGowan is——

Senator DONNELL. Perhaps I could get it a little easier if I just ask it of you this way: Who else is there from the American Federation of Labor's executive council who is on the administrative committee of the labor league?

Mr. GREEN. I think Secretary-Treasurer Meany.

Senator DONNELL. Mr. George Meany, secretary-treasurer. Yes. Who else?

Mr. GREEN. And I think Mr. MacGowan. I cannot recall now the names of others, if any.

Senator DONNELL. What is Mr. MacGowan's first name?

Mr. GREEN. Charles.

Senator DONNELL. Charles MacGowan; yes. All right.

Mr. GREEN. I do not remember—

Senator DONNELL. You said a moment ago, as I understood it, that the American Federation of Labor's executive council, which consists of 15 members, had a meeting at Miami. When did it start and when did it conclude?

Mr. GREEN. January 31, and lasted until February 7.

Senator DONNELL. January 31 was the day on which the hearings started before this committee on the proposed labor legislation. Where was this meeting held in Miami, the American Federation of Labor's executive council? What hotel was it?

Mr. GREEN. Alcazar Hotel.

Senator DONNELL. Alcazar Hotel. Did the Labor League for Political Education's administrative committee also have a meeting at Miami, Fla., at the same period, January 31 to February—what date did you say that was in February?

Mr. GREEN. I think they met there sometime during that period.

Senator DONNELL. You say you think they did. Do you know whether they did?

Mr. GREEN. I think they did.

Senator DONNELL. Did you attend any of their meetings, the meetings of the Labor League for Political Education's administrative committee?

Mr. GREEN. There are so many meetings that I think they met there, I am not just clear.

Senator DONNELL. Where did they meet in Miami, this administrative committee of the labor league?

Mr. GREEN. Well, I do not know just where they met, but I judge they met in the Alcazar Hotel. Accommodations were made for meeting purposes.

Senator DONNELL. Did you attend any of the meetings of the administrative committee of the Labor League for Political Education in Miami?

Mr. GREEN. I did not.

Senator DONNELL. Did Mr. Harrison?

Mr. GREEN. I am not sure; I doubt it.

Senator DONNELL. Did he tell you that he had?

Mr. GREEN. He did not tell me.

Senator DONNELL. He did not tell you. The officers of the Labor League for Political Education include Mr. Joseph Keenan as director, do they not?

Mr. GREEN. Well, he is the director of the league. I do not recall whether he is a member of the administrative committee or not. He is the director of the league, employed by us as the director of the league.

Senator DONNELL. Was he in Miami, Fla., during the period from January 31 until February 7?

Mr. GREEN. He was there part of the time.

Senator DONNELL. What was the date in February?

Mr. GREEN. February 7.

Senator DONNELL. Very well. I was asking you if Mr. Keenan was in Miami during the period from January 31 to February 7.

Mr. GREEN. It is my understanding that he was there, although I did not see him.

Senator DONNELL. You did not see him. Do you know if Mr. Harrison was there during all of that period?

Mr. GREEN. Yes, sir; Mr. Harrison was there about 2 days. He was there about 2 days before the council adjourned.

Senator DONNELL. Yes.

Mr. GREEN. He came to Miami just at the close of the council meeting.

Senator DONNELL. Was Mr. George Meany in Miami during that period from January 31 to February 7?

Mr. GREEN. Yes; he was there.

Senator DONNELL. Now, did those gentlemen, Mr. Harrison, Mr. Meany, Mr. MacGowan, and yourself, all stay at the Alcazar Hotel, too?

Mr. GREEN. Yes; we all stayed there. We stayed at the Alcazar Hotel.

Senator DONNELL. You spoke yesterday of the publicity representatives of the league. What is the name of the publicity representative or representatives?

Mr. GREEN. I do not know. I do not know who is the publicity representative of the league. There are some employees at the headquarters of the league here in Washington who serve in the preparation of documents and statements that are given some publicity. But just who it is who handles that work, I am not in a position to say myself. Mr. Keenan alone could answer that.

Senator DONNELL. When you are not present at the administrative committee of the Labor League for Political Education, who presides over its deliberations? In other words, who is the vice-chairman of it? Mr. Harrison?

Mr. GREEN. Well, they usually select one of them to preside; select someone to preside. I am telling you that I am not sure that I was at the meeting of the committee. I would have to look up the records in order to determine that.

Senator DONNELL. Well, did you know that the committee was making some plans with respect to what it was going to do in the future? I mean, this administrative committee of the Labor League for Political Education?

Mr. GREEN. No, I do not think they considered plans for the future at that meeting.

Senator DONNELL. You do not think they considered plans at that meeting?

Mr. GREEN. I do not think so.

Senator DONNELL. They did not make plans to pay the poll tax of voters in the South, help defray the expenses of State legislators, those favorable to labor, so that they will be able to attend every legislative session? They did not do any of that?

Mr. GREEN. Not that I know of.

Senator DONNELL. Not that you know of. You did not participate in it, at any rate?

Mr. GREEN. I have no recollection that any such action was taken as that. The subject matter may have been discussed, but so far as action taken, I feel sure, I can truthfully say that no action was taken.

Senator DONNELL. Did you discuss the subject matter that I have referred to?

Mr. GREEN. We have discussed it on other occasions.

Senator DONNELL. Did you discuss it at Miami?

Mr. GREEN. The difficulties that we encounter, we learned about that during the last political campaign, how difficult it was to get the voters out to the polls, many of them because of poll tax and others for other reasons. That is the subject matter we are interested in, and will be interested in.

Senator DONNELL. Mr. Green, how is the league to which you referred financed?

Mr. GREEN. It is financed by contributions from national and international unions for educational purposes between elections. When elections are held, it is the agency through which the American Federation of Labor tries to bring about a realization of the legislative policies.

Then, of course, it is financed by voluntary contributions from the membership of the American Federation of Labor.

Senator DONNELL. Yes. You said the national and international unions that are within the American Federation of Labor. I take it you meant those unions, national and international, within the American Federation of Labor who make contributions to the Labor League for Political Education.

Mr. GREEN. They do it during the interim between elections, when we are not in elections, for educational purposes only.

Senator DONNELL. You do it between the period of the election of 1948 and the election of 1950, the contributions there would be contributions made and have been already made by the American Federation of Labor to this Labor League for Political Education, is that right?

Mr. GREEN. These contributions are made and the funds are segregated for educational purposes only.

Senator DONNELL. Yes. Do you know approximately how much money—

Mr. GREEN. Understand now, not by the American Federation of Labor but by the league itself.

Senator DONNELL. By the league itself. What did you mean that the league itself does?

Mr. GREEN. By Labor's League for Political Education, and this administrative committee to which you refer. There is a line of distinction in that respect between the A. F. of L. and the league.

Senator DONNELL. Yes; well, I want to get it perfectly clear as to who finances the league. I understood you to say that the international and national unions under the A. F. of L. finance the league and are also assisted by contributions from—

Mr. GREEN. Yes.

Senator DONNELL. Individual members of the American Federation of Labor.

Mr. GREEN. Individual members when we are in a political campaign. That is because we want to comply with the statutes.

Senator DONNELL. But during the interim between elections then the financing of Labor's League for Political Education, the financing of it is done by the national and international unions of the American Federation of Labor?

Mr. GREEN. That is right, by local organizations and national unions.

Senator DONNELL. That is, all of which local organizations and national organizations and international unions are all a part of the affiliated bodies which constitute the American Federation of Labor; is that right?

Mr. GREEN. That is right.

Senator DONNELL. Can you tell us, Mr. Green, approximately how much money has been thus far contributed by these various unions, national and international, and others which are affiliated with the American Federation of Labor, to Labor's League for Political Education?

Mr. GREEN. I don't know.

Senator DONNELL. Do you know approximately?

Mr. GREEN. No, I couldn't even tell you approximately because the financial officer or somebody connected with the finances could answer that.

Senator DONNELL. Has it been a million dollars or more?

Mr. GREEN. I couldn't guess, Senator.

Senator DONNELL. You couldn't even guess?

Mr. GREEN. I couldn't even guess.

Senator DONNELL. You don't have any idea whether it is as much as a million dollars or more?

Mr. GREEN. No.

Senator DONNELL. Very well. What information do you have about discussion that has been had in the administrative committee of Labor's League for Political Education with respect to providing funds to members of State legislatures?

Just what do you know about that, yourself? What have you heard?

Mr. GREEN. I will tell you. I knew practically nothing about it until I read the press report of it, like you. It came to me as a matter of information through the press, because it was never brought to the attention of the executive council, the one body that is clothed with authority to act for the American Federation of Labor between conventions.

I can truthfully say that the executive council never considered such a proposal, never discussed it, and never acted upon it.

Senator DONNELL. Can you also say that the administrative committee of Labor's League for Political Education never considered or acted upon such a proposal?

Mr. GREEN. It is my opinion that no action was taken by the administrative committee of Labor's League for Political Education.

Senator DONNELL. Do you know that to be a fact? Do you know that no such action has been taken by the administrative committee of Labor's League for Political Education?

Mr. GREEN. I feel certain, and I am going to make sure of that by examining the records.

Senator DONNELL. Do you know how far this subject of providing funds for members of State legislatures has progressed in the discussions of the administrative committee of Labor's League for Political Education?

Mr. GREEN. It hasn't progressed at all by the administrative committee, but it came to the committee, as I understand it—this is hearsay—through some statement prepared by one of the representatives employed by the director of the league, which referred to our difficul-

ties in bringing about repeal of these antilabor laws in the different States, based upon the decision of the Supreme Court of the United States, and that our friends, many of our friends, who could be elected to the State legislatures, were compelled to decline nomination for election because they could not go on the salary that was paid.

I think in some States they only pay a legislator \$500 a year, and they could not live on that. Now, it was merely a matter of information as to our difficulties that we were encountering in our fight to bring about a repeal of these laws, but no affirmative action was taken on the proposition by the executive council of the American Federation of Labor and, I am of the opinion, by the administrative committee of the league.

Senator DONNELL. I didn't just understand who it was you thought brought this information in about conditions prevailing in the State legislatures. You said by one of the representatives employed by the league? Was that what you said?

Mr. GREEN. I don't know who brought the information.

Senator DONNELL. What was it you said one of the representatives employed by the league brought?

Mr. GREEN. I don't know the name of the one that did the job. There were several there. One man by the name of Slaughter. There is another man named Duncan employed in the headquarters of Labor's League for Political Education. These are employed along with Mr. Keenan, but I don't know who else.

Senator DONNELL. I am not clear yet as to what it is you think some one of the representatives, perhaps Mr. Slaughter, perhaps Mr. Duncan, or perhaps someone else, brought to Labor's League for Political Education. What was it one of those representatives brought? You said he brought something.

Mr. GREEN. I don't know. I said it was a matter prepared—I don't know who prepared it—as a matter of information and not for action.

Senator DONNELL. Who was it who brought in this information and what was the information that he brought in?

Mr. GREEN. It was the information that I have just mentioned: How difficult it was for workingmen in the different States to be candidates for election to the State legislatures.

Senator DONNELL. And you say you don't know who it was who brought that in?

Mr. GREEN. No, but I will find out for you and give you the names.

Senator MURRAY. May I interrupt the Senator?

Senator DONNELL. Very well, for a moment.

Senator MURRAY. Isn't it the common practice of the large corporations to finance candidates for election to the Congress and to State legislatures? Hasn't that been the common practice in this country for many, many years?

Mr. GREEN. I have understood it has. We are not engaged in that as yet. He is trying to make it appear we are.

Senator DONNELL. Mr. Green, how did you find that some one of these gentlemen whose identity you do not know, as you have stated, brought this information? How did you discover that?

Mr. GREEN. I said through the press reports.

Senator DONNELL. You didn't find it out until after you saw it in the press?

Mr. GREEN. No.

Senator DONNELL. You didn't know any information had been brought in to the Labor's League for Political Education as to the fact that many members of the legislatures have a hard time making ends meet until you read it in the newspaper?

Mr. GREEN. No.

Senator DONNELL. That would be on February 13. That was Sunday when you read it, this last Sunday?

Mr. GREEN. Some of the press reporters called me up about it and asked me about it, and I was confused when they brought it to my attention, because I couldn't recollect that any such matter had been brought to the attention of the administrative committee.

Then, I told them what I understood it was, that it was a statement prepared by somebody as a matter of information.

Senator DONNELL. Now, you say that somebody called you up, some reporter—did you say?

Mr. GREEN. Yes.

Senator DONNELL. I notice in the Evening Star of last evening an Associated Press dispatch saying as follows:

On Sunday Mr. Green told an AP reporter who questioned him about the story that the A. F. of L. would leave the matter to the various State federations.

Did you tell that reporter that?

Mr. GREEN. I may have made that statement. I don't recall.

Senator DONNELL. You don't recall?

Mr. GREEN. No.

Senator DONNELL. This was last Sunday you had this conversation. This is Wednesday; is that right?

Mr. GREEN. Of course, it is a matter for State federations of labor, because that is where the fights would be.

Senator DONNELL. Going back just a minute, you referred here 10 minutes or so ago to the fact that this matter, the predicament of State legislators had been under discussion for some time. You had heard it before?

Mr. GREEN. In a general way, it has been discussed, but I am talking about a concrete, definite report on it as compared with general discussion.

Senator DONNELL. Now, what is your understanding as to what was done with this information that one of these representatives brought into the Labor's League?

Mr. GREEN. I am at a loss to know what was done. I don't know where it is or who has got it.

Senator DONNELL. Have you made any inquiry to find out?

Mr. GREEN. No.

Senator DONNELL. How did you happen to say this, when you talked to this reporter, that this information had been brought in by a representative, if you didn't know what it was?

Mr. GREEN. Because that is a rule that is usually followed.

Senator DONNELL. The rule usually followed is what?

Mr. GREEN. Reports for Labor's League for Political Education to the administrative committee.

Senator DONNELL. How did it happen to occur to you to say that the information about the predicament of these legislators had been brought in by some representative?

Mr. GREEN. How do you think I knew?

Senator DONNELL. I don't know.

Mr. GREEN. My thoughts were working, and I concluded that is where it came from.

Senator DONNELL. You concluded it came from one of these representatives?

Mr. GREEN. What are you after?

Senator DONNELL. I am after information; that is all I want to know.

Mr. GREEN. Ask me direct, but don't get into this personal stuff. My thoughts are working as well as they can.

Senator DONNELL. They are working exceedingly well, and I have no objection to their working.

Mr. GREEN. Observe the rule.

Senator DONNELL. I want to find out how it happened to occur to you on Sunday, when this reporter called you up, that this information—

Mr. GREEN. What has that to do with it?

Senator DONNELL. Just a minute. Whether it has to do with it or not, I want to know how it happened to occur to you on last Sunday when the reporter called you up, how it happened to occur to you that some one of these representatives brought this information in to Labor's League for Political Education.

Mr. GREEN. That is the rule that it followed. Usually, these people prepare reports on information for the administrative committee; and, if this matter was dealt with, it was because some of these people had included it in these informational reports to the committee.

Senator DONNELL. Do you know whether it had been dealt with by the administrative committee or someone high in authority on that committee?

Mr. GREEN. I don't know.

Senator DONNELL. You don't know?

Mr. GREEN. I know nothing about it.

Senator DONNELL. Very well.

Mr. GREEN. I can't recall all the details.

Senator DONNELL. Who would know about this, if you do not know? What member of your organization or of the leagues' organization

Senator DONNELL. Do you know a man named Herrmann over in about the predicament of legislators?

Mr. GREEN. Mr. Keenan would know.

Senator DONNELL. Is he here in Washington?

Mr. GREEN. I don't know whether he got back from Miami or not.

Senator DONNELL. Do you favor paying money to members of State legislatures?

Mr. GREEN. No; I don't think—

Senator DONNELL. By the American Federation of Labor?

Mr. GREEN. I don't think it would be a wise thing to do. Corporations do it, but I don't think labor should do it.

Senator DONNELL. You don't think labor should do it?

Mr. GREEN. No.

Senator DONNELL. I am glad to hear you say you do not.

Now, you referred yesterday to the resentment that you say labor has under the Taft-Hartley Act; that it is smarting under the Taft-Hartley Act. You said you have 107 organizations, in the American Federation of Labor; did you not?

MR. GREEN. I think it is 107 or 108.

Senator DONNELL. Do a good many of those have newspapers or magazines which they issue?

MR. GREEN. Yes; most all of them.

Senator DONNELL. Do you know a man named Hermann over in New Jersey?

MR. GREEN. I know him.

Senator DONNELL. Is he the man who is at the head of all these newspapers—secretary-treasurer, I should say?

MR. GREEN. We have two classes of labor papers. One class is regarded as the official magazine of these national unions. That is owned and published by the national unions for the benefit of the membership and labor's friends.

Then, there is another group of labor papers that are owned privately by individuals or groups of individuals who publish them as labor newspapers, but they are not owned or administered by any union affiliated with the American Federation of Labor.

Now, Mr. Herrmann owns his own paper in New Jersey; the United Brotherhood of Carpenters and Joiners own their own publication. It is owned by them and is their own official magazine.

Senator DONNELL. Mr. Green, reverting just a moment to this matter of the predicament of the State legislators, the Associated Press dispatch that I put into the record on February 12 contains, among other things, this language:

It was recognized, however, that the pay for State legislators is so low in most States that labor people often cannot afford to run for office or take time out from regular jobs for lawmaking.

You observed that?

MR. GREEN. Yes.

Senator DONNELL. Then the article continues:

Thus it was proposed and virtually decided—
virtually decided—

that the league will help elect and thereafter augment the salaries of legislators endorsed by labor where they have insufficient funds of their own to get by.

Do you know whether that Associated Press statement is correct?

MR. GREEN. I can't speak for the league. Mr. Keenan can, but it is my opinion that no such action was taken by the league. I can tell you that no such action was taken by the American Federation of Labor, and in my opinion the American Federation of Labor would not approve of such action.

Senator DONNELL. The league follows the direction and attempts to follow the desires of the American Federation of Labor; does it not?

MR. GREEN. Yes, in a general way, but it formulates its own educational and publicity policy.

Senator DONNELL. The administrative committee of the league meets how often?

MR. GREEN. It meets periodically, I think about once every month or 2 months.

Senator DONNELL. In the meantime, is Mr. Keenan vested with authority to determine policies of the league if some urgent matter arises?

MR. GREEN. He is clothed with authority to administer the league in accordance with policies laid down by the administrative committee.

Senator DONNELL. Those policies are supposed to be in harmony with the policies of the American Federation of Labor; is that right?

MR. GREEN. Yes.

Senator DONNELL. Do you know, or not, whether it was proposed and virtually decided that the league will help elect and thereafter augment the salaries of legislators endorsed by labor where they have insufficient funds of their own to get by?

MR. GREEN. I am satisfied it was never decided, and I am satisfied it never will be decided that way.

Senator DONNELL. By the league or by the American Federation of Labor?

MR. GREEN. By the American Federation of Labor.

Senator DONNELL. You don't know what the league is going to do; is that right?

MR. GREEN. Of course, I couldn't tell, but it is my judgment that the league will conform to the decision of the American Federation of Labor in that respect.

Senator DONNELL. And then the next sentence in the Associated Press article reads:

The proposal was made by a high-ranking A. F. of L. official in a written statement presented to the Labor's League's administrative council.

Did you ever hear of that happening?

MR. GREEN. I don't believe that is true.

Senator DONNELL. Have you any idea who the high-ranking A. F. of L. official is that is referred to there?

MR. GREEN. Will you repeat that, please?

Senator DONNELL. Do you have any idea who the high-ranking A. F. of L. official is who is referred to there?

MR. GREEN. I don't believe that is a true statement.

Senator DONNELL. Going back again to these 107 organizations and these various newspapers—I am referring now to this resentment of labor under the Taft-Hartley Act, the way they are smarting under it—did you observe in the course of the period that has elapsed since the passage of the Taft-Hartley Act that the great bulk of these newspapers and magazines of the classes you have described here, which are issued under or affiliated with in any way the American Federation of Labor have contained articles calling the Taft-Hartley Act the Slave-Labor Act and have had cartoons showing labor with manacles and chains, crushed, gaunt and starved; have you seen those things?

MR. GREEN. Some of them.

Senator DONNELL. You have seen them in a great many of the papers; haven't you?

MR. GREEN. Yes.

Senator DONNELL. Who decided on the policy of issuing that sort of literature and cartoons?

MR. GREEN. The owners and editors of the papers.

Senator DONNELL. Was it done with your approval?

MR. GREEN. They don't ask me about those things.

Senator DONNELL. You didn't disapprove it?

Mr. GREEN. No; I don't disapprove it because it is essentially true.

Senator DONNELL. You have yourself, have you not, Mr. Green, used that language, "slave labor," publicly?

Mr. GREEN. Positively, and that is what I classify it as.

Senator DONNELL. And you have done that on many occasions, public speeches and private conversations; is that correct?

Mr. GREEN. Yes. May I ask you this question?

Senator DONNELL. Yes.

Mr. GREEN. If any agency of this Government—courts, judicial, legislative or otherwise—would compel you to render service against your will, would that not be slavery?

Senator DONNELL. I think it would, but there isn't anything in the bill that does that.

Mr. GREEN. What does the injunction do?

Senator DONNELL. The Taft-Hartley Act—I will come to that.

Mr. GREEN. What does the injunction do?

Senator DONNELL. I will answer your question on that. The Taft-Hartley Act prescribes in section 502 this:

Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent. * * *

That is in the bill.

Mr. GREEN. That is all right. Now listen to me. An injunction was issued and in effect for 80 days in a dispute between management and labor at the Oak Ridge plan in Tennessee. The workers had fixed the day when they would discontinue rendering service.

The injunction instructed them to continue at work for 80 days. They must not stop. You must work. You must not engage in a strike.

Wasn't that forced labor for 80 days?

Senator DONNELL. Mr. Green, may I ask you in that regard—

Mr. GREEN. Can you answer that?

Senator DONNELL. Is that in accordance with the Taft-Hartley Act provision I have just read?

Mr. GREEN. That was under the Taft-Hartley Act.

Senator DONNELL. That was an injunction issued by a court. I have not seen the injunction. I would want to see it and study it before answering your question.

However, I will say that the Taft-Hartley Act contains the language I have read and, so far as I know, there isn't a line in the Taft-Hartley Act that would compel any man to work if he doesn't want to work. It does do this, three things that the Taft-Hartley Act does in regard to injunctions. There are three classes of injunctions, and I quote now from the Report of the Joint Committee on Labor-Management Relations. It says:

Injunctions may be issued pursuant to three different provisions of the statute. Section 10 (j) gives the Board discretionary power to seek appropriate temporary relief, or a restraining order, upon its issuance of a complaint charging that any person has committed an unfair labor practice.

That doesn't compel anybody to work. It is an injunction against carrying on unfair labor practices.

Next it says:

Section 10 (1) requires the Board to seek injunctive relief in secondary-boycott cases when there is reasonable cause to believe the charge is true and that a complaint will issue.

Certainly there is no requirement of anybody to work. That is a requirement to enjoin people from picketing in front of establishments in the secondary boycott and engaging in other boycott activities.

The third case is:

Section 208 (national emergencies) authorizes such relief upon the petition of the Attorney General when a strike or lock-out is one which affects an entire industry or substantial part thereof, and if permitted to continue will imperil the national health or safety.

The bill itself says there in that regard, and I have it before me here:

Upon receiving a report from a board of inquiry the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lock-out or the continuing thereof, and if the court finds that such threatened or actual strike or lock-out—

(i) affects an entire industry. * * *

I take it you and I both agree that a strike is a concerted action and there is no provision in here that requires William Green, or Mr. Jones, or Mr. Smith, if he doesn't want to work, to work. It does enjoin the labor organization, it enjoins Mr. John L. Lewis from issuing a strike order ordering men not to work. It enjoins him, and Mr. Lewis found that out by decisions of the court.

Senator PEPPER. Will the Senator yield for an inquiry?

Senator DONNELL. Yes.

Senator PEPPER. I wonder if the Senator didn't stop reading too quickly.

Senator DONNELL. Not intentionally.

Senator PEPPER. I am sure of that. The whole section 208 (a) reads:

Upon receiving a report from a board of inquiry the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike—

to enjoin such strike.

Mr. GREEN. To enjoin the strike.

Senator DONNELL. That is right.

Senator PEPPER (reading):

* * * to enjoin such strike or lock-out or the continuing thereof.* * *

That means if they are on strike, it enjoins them from continuing on strike.

Senator DONNELL. Does the Senator think that means an individual worker is enjoined if he wants to quit work?

Senator PEPPER. I would like to continue.

Senator DONNELL. Will you express your opinion on that question?

Senator PEPPER. I have to read this language of the section:

* * * and if the court finds that such threatened or actual strike—

doesn't say orders of John Lewis—

(i) Affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several

States or with foreign nations, or engaged in the production of goods for commerce; and

(ii) If permitted to occur or to continue, will imperil the national health or safety, it shall have jurisdiction—

that is the court—

to enjoin any such strike or lock-out, or the continuing thereof and to make such other orders as may be appropriate.

Now, I am just asking this to get this understanding.

Senator DONNELL. That is well.

Senator PEPPER. The theory of this section is to preserve the national security and health and safety by preventing a work stoppage. It goes on the assumption that a work stoppage in this category of cases would imperil the national health and safety. Therefore, the whole purpose of this section was to prevent such work stoppage for a period of 80 days, and when you prevent a work stoppage, what can that mean except the miners have to continue to produce coal or the power plant workers have got to continue to produce electricity?

Either this section means that the court can prevent the men from quitting work, which means it may require them to continue work, or it has been grossly misrepresented as giving to the American people a security they do not possess, a shield which does not, as a matter of fact, prove effective.

Isn't the Senator forced to one limb or the other? It either means nothing in terms of protecting the national health and safety by guaranteeing that men will continue to work, or it does give the court the power to require men to continue work by forbidding them to quit work.

Isn't the Senator forced to one or the other?

Senator DONNELL. Not by any manner of means. I would say the purpose of this section is unquestionably to prevent strikes and lock-outs which will affect an entire industry, as read by the Senator, or the public welfare, national health or safety. Unquestionably that is true.

It refers to concerted action. It refers to a strike, which the Senator will well realize means concerted action. I have forgotten whether the word "strike" is defined in the act, but independently of that, at common law a strike is a concerted act.

There is nothing that requires any individual, any man—all of them individually, if they want to, can walk out.

May I ask the Senator this: As a lawyer, the Senator is well aware of the fact that every statute must be construed to effectuate every section of the statute. You will agree with that, will you not?

Senator PEPPER. With which it is not inconsistent.

Senator DONNELL. It is to be read from the four corners and every part is to be read consistent with the rest of it.

Senator PEPPER. I will admit that general principle, but the Senator will also recognize the general principle that the language that you can take into consideration in interpreting the meaning of language, the purpose the language was intended to accomplish.

Senator DONNELL. Yes.

Senator PEPPER. And haven't we in this committee for days been told by other people that we couldn't afford to take this injunction power that is conferred by this section 208 out of the statute and not

put it into our new bill because to do so we bare the United States and its safety and security to the danger of a work stoppage, and doesn't that mean it was intended to give the court power to prevent a work stoppage, and can you do that except by making the men continue to work?

Senator DONNELL. You certainly can. The Senator well realizes, I take, and Mr. Green does, and we all do, that an injunction against a strike will have the effect of preventing that strike unless you run into an individual like John L. Lewis who defies the courts, and the courts are right in their imposing fines and, if necessary, imprisonment on men who violate their injunctive orders.

We realize, of course, that the practical effect of such an order is to prevent the strike, and that is what it is intended to do, but if Mr. Claude Pepper or Mr. Murray or I myself shall be engaged in work, I certainly don't believe there is a man on this committee who would say that we cannot individually, as distinguished from part of a strike, leave our job. Obviously, if I may just finish this, section 208 (a) and section 502 are both parts of this act, and while there is the section to which the Senator refers giving the right to enjoin the strike, that is a concerted effort, that is what it is, a strike, there is also the equally important and relevant and enforceable provision, section 502, which I read, that—

nothing in this act shall be construed to require an individual employee to render labor or service without his consent—

and so forth.

It is to my mind perfectly clear—I am informed by Mr. Shroyer that Mr. Justice Goldsborough made a finding that 80 percent of these miners went out in concert.

Now, Mr. Green, going back here to this matter of the effect of this publicity, these cartoons and all this slave labor, you even heard men—

Mr. GREEN. I think we did.

Senator DONNELL. Even here just a few days ago perhaps you observed in the newspapers that a very distinguished member of our Senate, the Senator from Pennsylvania, Francis Myers, the majority whip, delivered a speech over a Nation-wide broadcast in which he referred to this Taft-Hartley Act as shackling labor. You saw that, didn't you, or knew about it?

Mr. GREEN. That speech?

Senator DONNELL. Just a few days ago.

Mr. GREEN. I didn't read it, but I heard the Senator delivered an address and I was in accord with that sentiment.

Senator DONNELL. You are in accord with that sentiment?

Mr. GREEN. I am. I don't modify my position on that at all.

Senator DONNELL. I understand your position. You said it yesterday very clearly.

Mr. GREEN. That is right.

Senator DONNELL. I will not burden you by going over it.

In these newspapers and magazines, did you ever see a copy of the Taft-Hartley Act set out?

Mr. GREEN. No; I don't think I have. I don't know that I have noticed that it has been reproduced.

Senator DONNELL. Has it ever been sent out by the American Federation of Labor to its members, these 8,000,000 people?

Mr. GREEN. They have been thoroughly acquainted with its provisions.

Senator DONNELL. Have copies of the Taft-Hartley Act been sent out by the American Federation of Labor to its members, the 8,000,000 members?

Mr. GREEN. I don't think we have distributed it.

Senator DONNELL. You know you didn't, don't you?

Mr. GREEN. They know about it, they have got it.

Senator DONNELL. You know it was not, do you not? You know your union, the A. F. of L., never sent it out to the 8,000,000 members, do you not?

Mr. GREEN. We have made no attempt to distribute it.

Senator DONNELL. There is a gentleman who is saying you have.

Mr. GREEN. It is brought to my attention here——

Senator DONNELL. What was it that was done?

Mr. GREEN. A summary of the provisions of the Taft-Hartley law was sent out generally.

Senator DONNELL. Could I see that summary?

Mr. GREEN. Yes.

Senator DONNELL. Prepared by the office of the general counsel, American Federation of Labor, summary of its provisions. That is set out here. When was that sent, do you know? I don't find any date on it here.

Mr. THATCHER. That was right after the act was passed.

Senator DONNELL. July 1947. To whom was it sent? Every member of the 8,000,000?

Mr. GREEN. To the local unions for distribution among their members.

Senator DONNELL. Do you know how many copies were sent out?

Mr. GREEN. I couldn't tell but it was a large number.

Senator DONNELL. What I am getting at is: Was there a copy sent for every member of the union?

Mr. GREEN. I don't suppose there was for 8,000,000 members, but there was a large number of copies sent out and then our labor papers did publish very largely the analysis of the Taft-Hartley law as we sent it out.

Senator DONNELL. Mr. Green, with your permission I would like to put into the record in its entirety this summary of the provisions of the Taft-Hartley Act prepared by the office of the general counsel of the American Federation of Labor, and circulated. Would you be good enough to furnish a copy?

Mr. GREEN. Yes.

(The document referred to above is as follows:)

SUMMARY OF PROVISIONS OF THE TAFT-HARTLEY ACT

Prepared by the Office of the General Counsel, American Federation of Labor

Official Title

Section 1: The Taft-Hartley Act passed on June 23rd is officially titled, "Labor-Management Relations Act of 1947." The Act is divided into several parts and the first part is a complete revision of the National Labor Relations Act (NLRA).

Coverage

Section 2: The NLRA covers any employment which affects interstate commerce, unless it is specifically exempted. Federal, state and local governments, Federal Reserve Banks, non-profit hospitals, and any employer subject to the Railway Labor Act are not *employers* covered by the Act. Individuals employed in agriculture or domestic service, or by their parents or spouse, independent contractors, and supervisors (including foremen) are not *employees*. Apart from these exceptions, the Act can be administered to include all trade and industry which is not strictly local, like retail and service trades.

Administration

Sections 4-6: How far the coverage of the Act is extended will depend, like many other questions, upon its administration. The Act is administered by a New Board, consisting of five members, in place of the former three-man Board. The old Board had full control over all its business; the new Board shares its powers with an independent General Counsel, who supervises the personnel of the regional offices of the Board and has "final authority" over the investigation and prosecution of all charges and complaints. The Board itself is left with the power to issue general rules and to decide cases brought to it by the General Counsel.

Rights of Employees

Section 7: Employees have a right to belong to unions and take part in union activities; and under the Taft-Hartley Act, they also have a right *not* to belong to unions, and *to refrain from* union activities. The unfair labor practices of employers and unions all relate to this declaration of the rights of employees.

UNFAIR LABOR PRACTICES

Employer Unfair Labor Practices

Section 8 (a) (1-5): There are five unfair labor practices by employers which violate these rights:

1. To interfere with, restrain, or coerce employees in the exercise of these rights;
2. To dominate or support a union.
3. To discriminate against employees because of union membership or non-membership;
4. To discharge or otherwise penalize an employee for filing charges or testifying before the Board;
5. To refuse to bargain collectively with a union which represents a majority of employees in an appropriate unit.

Union Unfair Labor Practices

Section 8 (b) (1-6): There are seven unfair labor practices by Unions:

1. To restrain or coerce employees in the exercise of their basic rights;
2. To restrain or coerce an employer in the selection of his representatives to deal with the union;
3. To cause or attempt to cause an employer to discriminate against employees on account of union membership or non-membership;
4. To refuse to bargain collectively with an employer where it is the majority representative of his employees;
5. To engage in certain strikes and boycotts;
6. To charge excessive initiation fees to members under union-shop agreements;
7. To force an employer to pay for work which is not expected to be performed.

Effect on Existing Closed-Shop Contracts

Section 102. The first impact of this Act is upon the closed shop, or any type of agreement which in one way or another makes union membership a condition of employment. Any closed-shop contract in force before June 23rd is good for the balance of its term, whatever that may be. Any renewal or extension, however, even if automatic, begins a new contract. An existing contract can probably be reopened on any item (e. g., wages) without affecting its union security provisions, if the reopening does not change the term or duration of the contract in any way. Between June 23rd and August 22nd, 1947, a union can enter into a closed-shop contract for one year. But any agreement made after August 22nd, 1947, which requires union membership as a condition of employment is subject to the prohibitions and restrictions of the Act.

Closed Shop Contracts After Aug. 22, 1947

Sections 8 (a) 3, 8 (b) 2: The closed shop and other forms of union security are directly affected by the two unfair labor practices which forbid employers to discriminate on account of union membership or non-membership, and forbid unions "to cause" employers to discriminate on that account. A contract which makes union membership a condition of employment requires the employer to favor union men and to discriminate against non-union men. This discrimination by the employer is forbidden whether it is done with or without a contract. The making of a closed-shop contract by an employer and a union voluntarily may only be subject to a cease-and-desist order; but the enforcement of the contract so as to deprive any person of employment, or the opportunity for employment, will subject both the union and the employer to an immediate injunction and the payment of any loss in wages suffered by the complaining individual.

Valid Union Shop Contract—Procedure

Section 8 (a) 3 (Proviso)—Section (9e): The Taft-Hartley Act permits a union to have a restricted form of union security. This type of valid union security agreement can only be made by a union which has an unquestioned majority status. If this status is questioned, an election must first be held to determine the majority choice. But this clear status is not enough. In addition, an election must be held to determine if the employees wish to authorize the union to enter a union shop contract. To get this election, the union must prove that 30 percent of the employees want an election to be held. The authorization election must be won by a majority of *all* the employees eligible to vote, not merely a majority of those who actually vote. If a union fails to win this vote, it cannot ask for another authorization election within a year. Once the authorization has been granted, a union-shop agreement can be made and renewed without further authorization elections. However, 30 percent of the employees in this unit can, by a signed petition at any termination date, demand a new authorization election. This agreement is not only limited to 1 year, it is also severely limited in scope. A valid union-shop agreement under the Taft-Hartley Act can go no further than to require an individual to join the union within 30 days after being employed; membership must be open to all employees on equal terms; and an employee cannot be discharged under such an agreement as long as he is willing to pay the regular dues and initiation fees. An employee can be fined by the union or expelled for breach of union discipline, but the union cannot force the employer to discharge him for that reason. Both an employer and a union going beyond these limitations are subject to an immediate temporary injunction from the courts, a permanent cease-and-desist order from the Board, and back-pay and reinstatement claims from any individual who loses his employment as a result.

Excessive Initiation Fees

Section 8 (b) 5: Under a union-shop agreement permitted by the Taft-Hartley Act, an employer cannot do more than compel all employees to pay to the union the regular dues and initiation fees. This excludes special assessments and fines. And any employee may complain to the Board that the initiation fees are excessive or discriminatory. The Board can order the union to reduce its fees and to refund any excess charges already collected.

Check-off

Section 302 (c) 4: The employer may deduct the amount of union dues (and dues only) from wages and pay the amount over to the union only if each employee has individually signed a written authorization for the check-off. The compulsory, automatic check-off is absolutely illegal. Both the union and the employer agreeing to it are criminally liable to \$10,000 fine and a year in jail. Agreements containing a compulsory, automatic check-off made *before* June 23, 1947, are valid up to July 1, 1948. The voluntary authorization, however, can be made irrevocable for a year, at the end of which time a new authorization must be signed. The union may, if it wishes, secure from each employee a check-off authorization, which is revocable at any time. Such an authorization would not have to be executed more than once.

Union Interference and Membership Rules

Section 8 (b) 1: The Taft-Hartley Act contains a general prohibition against "restraint" or "coercion" of employees by a union. These are legalistic words and it is difficult to say what they mean. But two significant points are clear. In the first place, while employers are forbidden to "interfere" with the em-

ployee's rights; unions are not. The term "interfere" is omitted with respect to unfair labor practices by unions, and its omission is deliberate. At the very least, ordinary solicitation of union membership is not touch by the Act. The Act also specifically safeguards the right of a labor organization "to prescribe its own rules with respect to the acquisition or retention of membership therein." This means that a union is free to reject applicants for membership and to punish members for violation of union discipline by fines and other penalties. It may also mean that a union member can refuse to work with a nonunion man where such association would be a violation of the union constitution or bylaws. The union, however, may not incorporate this rule into a collective bargaining agreement.

Employer Representatives

Section 8 (b) 1 (B) : The foregoing unfair labor practices by unions are prohibitions affecting individual employees. The Taft-Hartley Act prohibits a union from committing certain unfair labor practices against employers. A union cannot "restrain or coerce" an employer in the selection of his representatives to negotiate contracts or adjust grievances. This may mean that a union cannot force an employer to bargain through an association, but it does not prevent the union from offering uniform terms to all employers in the same general class.

Make Work Payments

Section 8 (b) 6: An employer may complain to the Board that the union is trying to force him to pay for work which "is not performed or to be performed." This section can be given many extreme meanings, but it is safe to assume that it does not apply to any payments made for the time of employees, even though no work is actually done in the time paid for. An employee's time is worth payment; what this section prohibits are payments for which no effort of any kind is required. If the employee has to make his time available to the employer, that in itself requires an effort and prevents the employee from working at some other job. Hence, this section does not prohibit call-in pay, travel-time pay or other pay when the employee has to keep himself available for employment. It does not apply to any periods of idleness in the course of employment like make-ready or waiting-time. And it does not apply to payments for past service, like vacation or severance pay. It is also reasonable to believe that this section does not regulate the number of employees on a job. The section does not say anything about how much work has to be performed or whether it is necessary.

Collective Bargaining Duty

Section 8 (d) : It is an unfair labor practice for a union to refuse to bargain collectively with an employer. The term "to bargain collectively" is given a lengthy definition. It means that the parties must meet with each other at reasonable times, and in good faith discuss terms. If an agreement is reached, either party can require that it be put in writing, but neither side has to agree to a proposal or make any concessions.

Strike Notices

Section 8 (d) (Proviso) : Where there is an existing contract, it is an unfair labor practice for a union to terminate or modify the contract or make any changes in working conditions unless it takes the following steps :

1. Gives sixty days written notice to the employer ;
2. Offers to meet and confer upon new terms ;
3. Within thirty days after notice to the employer, gives notice of the existence of a dispute to the federal and state mediation and conciliation agencies.

During the period of the notice, no change can be made in working conditions. This strike notice requirement can be met by giving the notice at least sixty days before the termination of the contract. Any employee who goes out on strike during the waiting period can be summarily discharged by the employer.

The same duty is imposed upon the employer, and under similar circumstances he cannot make any changes in working conditions without giving the above notices. He may be enjoined from making any such changes or from locking-out employees before the sixty days are up.

Unlawful Strikes and Boycotts

Section 8 (b) 4 (A) (B) (C) (D) : This prohibition on the employer is mild indeed, and it is nothing at all compared to the prohibitions against certain

strikes and boycotts by unions. The Taft-Hartley Act makes it unlawful for a union to engage in a strike or concerted refusal to handle goods or perform services, or to induce other employees to take similar action, for any one of the following objects:

1. To force an employer or self-employed person to join a union or an employers' association;
2. To force a person to stop using the products or services of another person;
3. To force another employer to recognize and bargain with a union unless the union has been certified by the Board;
4. To force any employer to bargain with one union if another union has been certified by the Board;
5. To force an employer to give work to one particular union or craft as against others unless the particular craft has been certified by the Board.

This section of the Act is dangerous, because anyone injured by the prohibited acts can sue in the federal courts for damages. Certain points are clear. In the first place, it does not apply to any appeal to consumers not to patronize a struck or unfair employer. It does not apply to direct strikes over wages, hours or working conditions. It does prohibit three kinds of direct strikes: (1) a strike to compel an employer to join an employers' association or a union even if he is a working employer; (2) a strike against a rival union which has been certified by the Board; and (3) a strike over jurisdiction, unless the union claiming the work has been certified by the Board. It prohibits most sympathetic action by one union in aid of another union having a dispute with the same or another employer. Both the union seeking sympathetic action and the union giving it are violating the Act. It makes it unlawful for a union to extend any strike or boycott to other employers or to the suppliers or customers of the struck employer. There are two situations in which sympathetic action is permitted by the Act. *First*, where the main dispute is caused by the refusal of an employer to recognize or bargain with a union of his employees *which has been certified by the Board*, other workers can refuse to handle the products of the struck employer or refuse to furnish services to him. But it must be noted that certification by the Board under the new procedures will, in many cases, not be easy. Moreover, the duty to bargain has been reduced to a mere formality with which any employer can readily comply. *Second*, a union can direct its members not to cross a picket line and enter the premises of a struck employer, provided that the strike is being carried on by a union which is the authorized representative of the employees of the struck employer. This strike can be over any issue, but the union refusing to cross the picket line must be sure of the status of the striking union.

REPRESENTATIVES AND ELECTIONS

Exclusive Representative

Section 9 (a): A representative is defined by the Act to mean an individual or organization. The representative chosen by the majority of the employees in an appropriate unit has the exclusive right to negotiate contracts and to administer them. But an individual employee or a group of employees have the right under the Act to take up their grievances with the employer, provided the representative is notified and allowed to be present. Moreover, any settlement or adjustment of a grievance must be in line with the contract between the employer and the union. As a practical matter, an employer will not make a settlement without consulting the union, because otherwise the union could claim that the settlement violates the terms of the contract.

Appropriate Unit

Section 9 (b): Under the old Act, the NLRB had complete discretion to decide what was the appropriate unit; whether, for example, it was entire plant or separate crafts within a plant. Under the new Act, a craft union can on demand secure a separate election; and no craft group can be included in a larger unit unless a majority of the group votes against separate representation. The fact that the NLRB has previously established a larger unit in any particular case does not prevent a well-defined craft group from now asserting its claims.

Professional Employees

In the same way, any professional employees can get a separate election and cannot be included in a unit with non-professional employees if a majority of them vote for separate representation.

Plant Guards

Plant guards and other plant protection employees cannot be included in a unit with other employees, whether they want to or not. These employees have to bargain by themselves and no union of plant guards can be certified if it is affiliated directly or indirectly with a union of the other employees.

Supervisors

Section 14 (a) : Supervisors, including foremen, have no rights at all under the Taft-Hartley Act, and they cannot be included in any unit, mixed or separate. They can belong to a union, but the employer can fire them for that reason and he cannot be compelled by law to recognize or bargain with them.

Petitions for Elections

Section 9 (c) (1) (3) : Under the old Act, an employer could not file a petition for an election unless two or more unions were claiming to represent the same group of employees. The new Act permits the employer to file a petition for an election if only one union claims to represent his employees. An entirely new procedure is authorized whereby any group of employees may claim that a union which is acting as the exclusive representative no longer has a majority. In the past one union could contest the status of another, but now a union can be displaced by "no-union," if it loses an election brought about by the employer or by a group of employees. A union can now be "de-certified." There are, however, some checks upon new elections. First, the NLRB must find that there is a question concerning the majority, though its finding is final and cannot be directly challenged in the courts. Second, no new election can be held within 12 months after an election. Third, the NLRB can in its discretion rule that a contract for two or three years is a bar to any election during the life of the contract.

Discharged Strikers

Section 9 (c) 3 : The Board may, under certain circumstances, order an election during a strike, if, for example, the strike is over the negotiation of a new contract and the employer, or another union, or a group of employees challenge the majority status of the striking union. In such an economic strike, the employer is free to discharge the strikers with scabs or strikebreakers. These replaced, discharged strikers have no claim for reinstatement even if the strike is called off. And by the terms of the Act, strikers who are not entitled to reinstatement cannot vote. Under the old Act, both the replacements and the strikers voted. Thus, if the employer can fill the places of a majority of the striking employees, he or the strikebreakers can petition for a new election and the striking union can lose its bargaining rights. The moral of this is that a union which loses a strike will also lose its legal rights under the Act. This section does not apply to a strike caused by an unfair labor practice on the part of the employer, because in such a case, all the strikers are entitled to reinstatement and are therefore eligible to vote, while no replacements can vote.

Union Reports

SECTION 8 (f) (h) : There are certain conditions which must be met by any union which wishes to make any use of the Taft-Hartley Act. Before a union can ask the NLRB to certify it, or to hold a union-shop authorization election, or to prosecute an employer for unfair labor practices, it must file a report on its finances and internal structure, and affidavits by its officers that they are not Communists. The reports must be filed with the Secretary of Labor, both by the local in the case and by any national or international organization to which the local is affiliated. The items include the constitution and by-laws, names and compensation of officers, amount of initiation fees and dues, and a description of its internal procedures for the election of officers and stewards, calling of meetings, negotiation and ratification of contracts, assessments, fines, strikes, handling of funds, benefits, and expulsion of members. The financial report must show all receipts and sources thereof, assets, liabilities, disbursements, and purposes thereof. Each year the reports must be brought up-to-date by a supplemental statement. A copy of the financial reports must be "furnished to all of the members."

These reports must be made out on forms to be prescribed by the Secretary of Labor. There is no provision in the Act requiring the Secretary to keep any of this information confidential. If a union fails to submit this information, it is nevertheless subject to any proceedings under the Act brought by others against it. It could be certified, if another party petitioned for an election, but it could not get any other benefits and it can suffer all penalties of the Act.

Anti-Communist Affidavit

SECTION 9 (h) : The anti-Communist affidavit must be filed with the NLRB by each officer of the local in the case and by each officer of its parent organization. The officer must swear that he is not a Communist and that he does not believe in the overthrow of the government by force or violence. The affidavit is valid for a year and must be renewed each year. If one officer in the local refuses to make out such an affidavit, the local is debarred from any recourse to the NLRB. If a national officer refuses to sign such an affidavit, all the locals are debarred. A false affidavit subjects the individual officer to criminal prosecution for perjury.

Run-off Elections

SECTION 9 (c) 3: This explanation of the procedures and conditions for elections under the Act can be concluded with a brief reference to a few minor points, such as run-offs, consent elections and equal treatment of independent unions. If an election for certification between two or more unions and "No-Union" does not result in a clear majority of those voting, a run-off is held and "No-Union" is entitled to a place on the run-off ballot if it is one of the top two choices in the original election. The old NLRB placed only the two top unions on the run-off ballot.

Consent Elections—Independent Unions

SECTION 9 (c) 2, SECTION 9 (c) 3: Consent elections are still allowed, but the new NLRB cannot certify a union without a formal hearing, unless all the parties consent. The former practice of certifying on a card check or other informal investigation, where there was no substantial issue, is now prohibited. The Act also directs the Board to give equal treatment to independent unions and unions affiliated with a national organization. This means that the NLRB cannot adopt a policy of keeping "company unions" off the ballot and ordering them to be disestablished, unless it also applies the same policy to affiliated unions which have received support from the employer in a particular case.

PREVENTING UNFAIR LABOR PRACTICES

Basic Procedure

SECTION 10: Violations by unions or employers of the unfair labor practices established in the Taft-Hartley Act are prosecuted by the General Counsel and decided by a Board. Anyone can file a charge alleging a violation with a Regional Office. Under the supervision of the General Counsel, the charge is investigated and if believed substantial, a complaint is issued. A hearing is held before a Trial Examiner. Witnesses and records can be subpoenaed, and a Board attorney acts as prosecuting attorney. The Trial Examiner's decision is reviewed by the Board itself. It issues an order prohibiting further violations, and granting reinstatement with or without back pay. If the order is not obeyed, the Board can apply to the Federal Courts for a mandate, or the party adversely affected can ask a Federal Court to set aside the Board order. Final appeal is to the Supreme Court of the United States. Once a Board order has been upheld by the Courts, any failure to obey the order is punishable as contempt of court by fine or imprisonment.

Six Months' Limitation

SECTION 10 (b) : The Taft-Hartley Act introduces a number of new features to basic administrative procedure. A charge of unfair labor practice must be filed within six months after its occurrence.

Temporary Injunction

Section 10 (j) : The most important new feature of the procedure for preventing unfair labor practices is that the Counsel can go to the Federal Courts for a temporary injunction to stop any unfair labor practice. If he or his regional officers issue a formal complaint, they can, without further hearing and pending a final decision by the Board, go to the nearest Federal Court and ask for a temporary injunction against the alleged violator, be it union or employer. The judge in his discretion can find that a prima facie case exists and thereupon issue the injunction. The injunction will last until the case is finally determined by the Board. The Norris-LaGuardia Act is suspended in these cases.

Mandatory Injunctions Against Unions

Section 10 (l) : Under the Taft-Hartley Act, injunctions against unions must be sought by the Board in cases involving unlawful strikes or boycotts, which

have been described above. Full authority is delegated to the Regional Offices to handle these injunctions. The Regional Officer or Attorney must immediately investigate a charge alleging an unlawful strike or boycott; he must give it priority over all other business in the office. If he has reason to believe that the charge is true, without waiting to issue a complaint, he is directed to go to the nearest Federal Court and ask the judge for an injunction. The union can be enjoined by a judge in the district where the strike or boycott is being carried on or wherever it is doing business through an officer or agent. This injunction takes effect immediately, and lasts until the case is decided by the Board.

Mandatory Hearings in Jurisdictional Disputes

Section 10 (k) : Where a charge grows out of a jurisdictional dispute, the Board is directed "to hear and determine the dispute." Unions can avoid this intervention by establishing their own voluntary methods for settling jurisdictional disputes, within ten days after notice of a charge.

Damage Suits for Unlawful Strikes and Boycotts

Section 303: Injunctions against unlawful strikes and boycotts are to be brought by the NLRB lawyers. Thereby the Government provides employers with counsel to bring injunctions against unions. The Taft-Hartley Act also gives the employer, and anyone else who claims he is injured by an unlawful strike or boycott, the right to sue the union for damages in the Federal Courts. This suit will not cost the employer or the injured party anything, for, in addition to damages, he can recover the costs of the lawsuit, which includes lawyers' fees. So, if the NLRB cannot or will not take up a case for an employer, he can go to court himself. While he cannot, like the Board, get an injunction, he can collect damages. He can sue the union where the strike or boycott is taking place, or wherever the union is doing business through an officer or official agent. The union can be held liable for the conduct of any agent even if the union did not "actually authorize or subsequently ratify" his actions. One limitation is that if any damages are awarded, they can only be collected from the union and not from the individual officers or members.

DAMAGE SUITS FOR BREACH OF CONTRACT

Contract Damage Suits

Section 301: The breach of a contract between a union and an employer is not an unfair labor practice. The contract is, however, enforceable by the union or the employer by a suit for damages in the Federal Courts. This section of the Taft-Hartley Act does not change in any way the rights and duties of parties to a contract. It does not authorize injunctions to enforce contracts. But the Act does make certain legal procedural changes. It opens the Federal Courts to such suits where before most of them had to be brought in the State Courts. And like the suit for damages for unlawful strikes or boycotts, the suit can be brought wherever the union is doing business through officers or official agents. On the other hand, while it is hard to limit the liability of a union for unlawful strikes or boycotts, a contract can completely control the liability of the parties to it. For example, a contractual provision for the arbitration of all disputes, would preclude a suit in court for breach of the contract, unless the entire contract were repudiated by one of the parties.

PAYMENTS BY EMPLOYERS TO UNIONS

Criminal Penalties

Section 302 (d) : Unfair labor practices are risky; all of them can be enjoined, some very quickly, and the union may have to pay damages. A breach of contract may likewise bring on a lawsuit. But payments of money or anything of value by employers to unions or to union representatives, except as permitted by the Act, are absolutely illegal. Both the employer making the payment and the union officer or agent receiving it are criminally liable and can be fined \$10,000 and given a year in jail. Violations can also be enjoined.

Exceptions

Section 302 (c) : The Act expressly excepts any payments made to a union by an employer under a court judgment or an arbitration award, or in settlement of a grievance. Its two most important applications are to the check-off and union-employer benefit funds. These are permitted under certain specified conditions.

Benefit Funds

Section 302 (c) : The legal check-off has already been explained. The Act does not apply to any benefit scheme financed solely by the union and its membership. Nor does it apply to any plan administered solely by the employer. It does not apply to benefits paid by the employer directly to individual employees, such as sick or vacation pay or insurance premiums. The requirements applicable to joint union-employer schemes are technical and any union administering a benefit fund to which the employer contributes will need technical advice.

POLITICAL CONTRIBUTIONS

Political Contributions

Section 304: The Taft-Hartley Act makes illegal any "contribution or expenditures" by a union in connection with primary and general elections for President, Senators, or Congressmen. A violation is a criminal offense.

Senator Taft has claimed that the prohibition prevents a union journal from commenting on political issues if the journal is financed from regular union dues. This interpretation, we believe, unconstitutional. Union officers and representatives have a right to express their opinions, particularly on political matters.

In 1944 Congress prohibited unions from making political contributions in connection with general elections. The Taft-Hartley Act extends this ban to include "expenditures" and also to include primary elections. "Expenditures" can only mean, constitutionally, payments made in behalf of a candidate for political literature, meetings or broadcasts. It does not apply to union literature, meetings, or broadcasts which express political opinions of the union and its members.

CONCILIATION OF DISPUTES AND OTHER MATTERS

Federal Mediation Service

Sections 201-205: "Federal Mediation and Conciliation Service" is established as an independent agency. This Service takes the place of the old "United States Conciliation Service" of the Department of Labor. Under the amended National Labor Relations Act, parties to an existing contract must give notice of any dispute over a new contract to the Service.

Labor Management Panel

Section 205 (a) : The conciliators, however, are not given any legal powers and they still operate on an entirely voluntary basis. They are to be aided by a special panel of twelve members, six from management and six from labor. These men are to assist the Service "particularly with reference to controversies affecting the general welfare of the country."

National Emergency Strikes

Sections 207-209: The President of the United States may establish a fact-finding Board, delay any strike action for eighty days, and require a membership vote on the employer's last offer in any strike or threatened strike which he believes creates a national emergency. The Board can subpoena witnesses and records. At first, the Board simply reports the facts to the President without any recommendations. If the dispute continues, the President may direct the Attorney General to secure an injunction against the strike or threatened strike. For the next sixty days, the fact-finding Board tries again to settle the dispute. If it fails, it again reports the facts and this time its settlement efforts as well, to the President together with the employer's last offer. Within fifteen days, the NLRB must hold an election among the employees of "each employer involved in the dispute" to discover if they would like to accept their employer's last offer. The results of the election do not bind anyone; on the contrary, within five days after the election, regardless of its results, the injunction must be dissolved. The strike can be resumed or the threatened strike can be called. In that event, the President submits a full report and recommendations to Congress. The total elapsed time is eighty days. Under the Taft-Hartley Act, it will be recalled, a union must also give sixty days notice if it wishes to change an existing contract, but this notice can be given during the contract. The "National Emergency" provisions can add eighty days delay beyond the termination of the contract and pile up all the public pressure the government is capable of mustering. The election on the employer's last offer will probably operate like the Smith-Connally strike votes.

Strike by Government Employees

Section 305: Government employees are prohibited from striking under penalty of immediate discharge, forfeiture of civil service status, and a three year blacklisting for any federal employment. This ban includes employees of any wholly owned government corporation, like TVA.

Joint Legislative Committee

Sections 401-407: The Taft-Hartley Act is not sure that it has solved the problems of controlling unions and regulating labor relations. As a final touch, it establishes a joint Congressional committee with a \$150,000 appropriation, to make a "thorough study of the entire field of labor-management relations."

Senator DONNELL. Has the entire act itself ever been sent out to the membership of the American Federation of Labor, the entire Taft-Hartley Act as distinguished from this summary?

Mr. GREEN. Printed and distributed and sent out?

Senator DONNELL. Yes, sir.

Mr. GREEN. The act in its entirety?

Senator DONNELL. Yes, sir.

Mr. GREEN. I don't think so.

Senator DONNELL. Who was the general counsel by whom this was prepared, Mr. Padway?

Senator MURRAY. I would like to say, Senator, that I sent scores of copies out to various unions in Montana and I am sure other Senators have done likewise. I don't think there is a union in the country that hasn't had copies of this act before it.

Mr. GREEN. Do you mean to imply that our membership is ignorant of this act?

Senator DONNELL. I mean to imply this: I think it is true of a large proportion of the population, including the membership of your union, the American Federation of Labor, that they don't know the contents of the Taft-Hartley Act, and I may say that—

Mr. GREEN. They are not ignorant, my dear sir.

Senator DONNELL. I am not accusing them of ignorance. I would say the Taft-Hartley Act is a long act, it is difficult to take that act without doing what is done in this book here entitled "Legislative History of the Labor-Management Relations Act" and see the respects in which it differs from the Wagner Act.

This book I hold in my hand contains italics and brackets and various devices to show the difference between the two acts, and I defy anybody in this room, without exception, even Mr. Shroyer, who is an expert, and yourself—I don't use the word "defy" in an unpleasant sense—but I challenge anybody in this room to sit down without some such guide as that and tell us consecutively right down the line what this act does that the Wagner Act doesn't do. It is almost an impossibility. There may be a few people that can do it, doubtless there are, perhaps your counsel can do it.

Mr. GREEN. Do you understand thoroughly what it does?

Senator DONNELL. I would say I have been studying it, and I have a very fair comprehension of it, but I think I have derived much benefit from the testimony we have received and I have learned much I didn't know a few days ago and I am glad to get it, and that is the purpose of these hearings.

Mr. GREEN. Our individual members who work at the bench and in the ditch may be against this act, they don't even know what it all means; and, listen, they find out what it means and how it hurts them

by decisions of the Labor Relations Board, by decisions of the general counsel, Mr. Denham, and others, and by interpretations based upon it by the courts. It is so confusing.

Senator DONNELL. I know this is a question that you can't answer statistically and I only ask it in order that you may give us your best judgment. You have 8,000,000 members. What in your best sound judgment is the proportion of the members of the American Federation of Labor, the 8,000,000, who have ever read the Taft-Hartley Act?

Mr. GREEN. I couldn't answer that as to what proportion of them have read it, but I do know a large proportion of them have read it, and they understand it, and the fact that they understand it and that it is detrimental to them was reflected at the polls last November in the States of Illinois, Ohio, Tennessee, Minnesota, and other places.

Senator NEELY. You should include West Virginia.

Mr. GREEN. Yes; and West Virginia. They told the truth then.

Senator MURRAY. And Montana.

Mr. GREEN. And Montana. I can name a lot of them. Don't you fool yourself that they don't know what it is.

Senator DONNELL. I suppose in Montana, I think in fairness to Senator Murray, that doubtless they were largely educated by those scores of copies of the act which the Senator sent out.

Mr. GREEN. That is the best answer I can make to you. They are sovereign citizens and they go to the polls and vote.

Senator DONNELL. Yes.

Mr. GREEN. Any they know what they are doing.

Senator DONNELL. I want to say that my experience has been, sir, doubtless as yours has been, that many a time you will come across a man in old clothes, maybe greasy clothes, and he knows more in a minute than some of us fellows with white collars know in an hour.

Mr. GREEN. Yes; from a practical standpoint. You know about law but they know about work and they can tell you.

Senator DONNELL. Yes.

Mr. GREEN. You know what is best for them in law.

Senator DONNELL. I ran into a man—

Mr. GREEN. I guess you know what is best for them in law, notwithstanding—

Senator DONNELL. I ran into a man within the past few days on the railroad on which I was going to St. Louis in connection with Lincoln Day affairs, going to Missouri for that purpose, I ran onto a colored man, who I assume is not a man of great means. He is a nice-looking colored man, rather middle-aged, I would say. He came up to me and, to my amazement, he told me most interestingly his views about the Taft-Hartley Act. I might tell you, incidentally, he was favorable to it. [Laughter.]

Senator PEPPER. That is obviously what made a good impression.

Senator DONNELL. He did make an excellent impression on me, but I want to say—

Senator WITHERS. Suppose he had been against it?

Senator DONNELL. I would have had the same respect for his opinion.

Senator PEPPER. But we wouldn't have heard about him.

Senator DONNELL. I think I would have told you about him. I have talked to people who are against the Taft-Hartley Act.

Senator NEELY. Was that colored man a railroad man?

Senator DONNELL. I would rather not identify him further. I will tell you confidentially and be glad to do it, but I don't think I should put it on the record.

Senator NEELY. If he is a railroad man, he is not under the Taft-Hartley Act.

Senator DONNELL. I wouldn't want to endanger this gentleman.

Senator WITHERS. Don't we think men are smart and intelligent when they agree with us?

Senator DONNELL. There is a lot of truth in that.

Mr. Green here is a man of high ability, great and distinguished public service.

Senator WITHERS. But you say he is ignorant of the act.

Senator DONNELL. No; I didn't at all.

Senator WITHERS. I thought you did.

Senator DONNELL. I didn't say Mr. Green is ignorant of the act. That is his business. Mr. Green has studied this act, but I want to ask Mr. Green this: Did you see a magazine or magazines several months ago in which appeared a series of some 16 or 18 or 20 questions, I would say roughly, asking the public: "What do you think about this provision? What do you think about this? What do you think about this?"

My recollection is that was circulated among members of labor unions and this magazine, I think, was Look magazine, although I am not sure.

The magazine came back with the results and they went down the line, and the majority of the people, I think it was, who were in labor unions who had seen these questionnaires, were favorable to the specific provisions listed; and yet when they were asked the question, "Are you favorable to or opposed to the Taft-Hartley Act," they were against it.

Did you see that?

Mr. GREEN. No; I didn't see that.

Senator DONNELL. You heard of it, didn't you?

Mr. GREEN. I didn't see that. I saw some page advertisements put in by what was called Small Businessmen's Organization directing questions at me and at Mr. Murray, of the CIO. I saw that.

Senator DONNELL. Mr. Green, I don't want to take much more time here. I wanted to ask you, though, to get right down to the facts in the case, would you say there are 400,000—that would be 5 percent—are there 5 percent of the membership of the American Federation of Labor who, in your judgment, have ever read the Taft-Hartley Act?

Mr. GREEN. A higher percentage than that.

Senator DONNELL. Ten percent?

Mr. GREEN. Probably 50 percent.

Senator DONNELL. You think probably 4,000,000. I am really greatly surprised at your statement, but I will defer to your judgment. My observations would have been decidedly to the contrary.

Mr. GREEN. What was it that caused them to vote in November as they did?

Senator DONNELL. I am glad you asked that question. I think that remarks by great leaders such as yourself where in public addresses, as you have said, and privately you called this act a slave-labor act, I think utterance of the gentlemen on the political campaigns who have spoken in like terms, I think these cartoons, I think the editorials,

I think the constant use of the term "slave labor" all had a tremendous influence on the people of this country in thinking that this act is iniquitous.

And yet if they read the act, while they will find some things in it—and I am free to say there are some things that should be improved in it, but the main fundamental principles of this act, to my mind, are sound.

I think, answering your specific question, we had Mr. Herrmann here the other night and in regard to the two or three hundred, he said 315 newspapers, as I remember, some of which are A. F. of L., some of which are CIO, the great bulk of those I judge had similar things such as cartoons, and it would make a man's blood boil to see labor handcuffed, in chains, in jails, in penitentiaries, and down in the dungeons, and I think that had a tremendous influence, and I think it had far more influence than the reading of the scores of copies of the Taft-Hartley Act that Senator Murray sent out, or even the summary your own general counsel prepared, which is not a copy of the act.

Senator PEPPER. Will the Senator yield?

Senator DONNELL. Yes.

Senator PEPPER. In the first place, I have just glanced over this summary, which is going to be put in the record, as the Senator from Missouri requested, and I haven't seen anything in there that I didn't think was fair comment and most of it is just a factual summary of the act.

Senator DONNELL. Might I say to the Senator on that I have not had but a moment of time, as the Senator observed, to see it and I am making no criticism of it, but it is subject to my examination of it. I am making no concessions or criticisms of it.

Senator PEPPER. Right at that point I want Mr. Green to answer: Is it not a fact that the American Federation of Labor last year conducted a poll among its members on the Taft-Hartley bill?

Mr. GREEN. Yes, sir.

Senator PEPPER. Does President Green remember what the result of that poll was?

Mr. GREEN. I can't at the moment. It was 9 to 1 against it. We subjected it to them as a poll and they voted 9 to 1 against the Taft-Hartley law.

Senator DONNELL. Eight hundred thousand, 10 percent, voted in favor of it; is that right?

Senator PEPPER. There is always a margin of error in any vote, isn't there? There are always a few people who are wrong.

Senator DONNELL. We find that true on the Democratic side of the Senate every day.

Senator PEPPER. Even one of the Apostles got off the track a little bit.

Mr. GREEN. Yes.

Senator DONNELL. Mr. Green, I am aware of the fact that time is going on and I will draw this to a close as rapidly as I can. I want to ask you a few things.

You have come out in favor of the Thomas bill and I want to ask you: Down at Miami at the meeting of the executive council, which didn't start to meet until the day this committee of ours started, January 31, didn't you express yourself down there as being content to leave the requirement that a person doesn't belong to the Communist

Party—didn't you express yourself as being content to leave that in the new bill?

Mr. GREEN. The what?

Senator DONNELL. That Communist affidavit which is required of officers of labor unions. I haven't stated that clearly.

Mr. GREEN. No, that wasn't acted upon.

Senator DONNELL. I didn't make my question clear.

Mr. GREEN. The best answer I can state—

Senator DONNELL. I haven't stated the question correctly. I am asking about your own individual expression at Miami. Didn't you in substance say that you were content to leave in the law the provision requiring every officer of a labor union to file an affidavit that he is not a Communist?

Mr. GREEN. I think I made that statement. I have made it on a number of occasions and that is based upon the decision of the convention of the American Federation of Labor, which was held at San Francisco in 1947.

The matter was threshed out there and our convention decided by a majority vote, very definite majority, that we would comply with the law by filing non-Communist affidavits as required. Now, that was a decision of the supreme body in the American Federation of Labor.

Senator DONNELL. I understand that.

Mr. GREEN. I base my declaration on that action.

Senator DONNELL. The point I am getting at is that although the Thomas bill doesn't require any affidavit for non-Communist activity—

Mr. GREEN. We are not asking that.

Senator DONNELL. That you yourself down at Miami between January 31 and February 7 expressed yourself as being perfectly content to leave in the bill the provision requiring the filing by an officer of a labor union of an affidavit that he is not a Communist.

Mr. GREEN. That is my personal opinion, but I am not asking that it be put in.

Senator DONNELL. That is your personal opinion, I understand.

Did you not also express yourself as not intending to take sides concerning the proposition of returning the Conciliation Service to the Department of Labor?

Mr. GREEN. Never did.

Senator DONNELL. You mentioned George Meany and George Harrison. There is another man named Dan Tracy. Is he active in your organization?

Mr. GREEN. Mr. Tracy is a member of our executive council.

Senator DONNELL. Of the American Federation of Labor?

Mr. GREEN. Yes, sir.

Senator DONNELL. Is it or is it not a fact that on December last year, George Meany, George Harrison, and Dan Tracy went to the office of Secretary Tobin and some one or more of you in substance stated that you are not going to get into a fuss concerning the putting of the Conciliation Service back into the Department of Labor?

Mr. GREEN. No, I never made any such statement.

Senator DONNELL. Did any of you gentlemen make that statement in that conference?

Mr. GREEN. No, sir.

Senator DONNELL. You did have the conference?

Mr. GREEN. I don't recall that even.

Senator DONNELL. Let me ask you this: Did Secretary Tobin come down to Miami on February 8 by airplane?

Mr. GREEN. After the council meeting was over he arrived in Miami. It was either about the 8th or the 9th.

Senator DONNELL. Had Mr. Tobin previously, prior to the adjournment of the council, expressed himself to you with reference to the desirability of having the Conciliation Service restored to the Department of Labor?

Mr. GREEN. I can tell you frankly I have never discussed the matter with Secretary Tobin anywhere or at any time.

Senator DONNELL. Very well. I want to ask you just these questions.

Is there any objection that you have to having in the bill the prohibition against strikes by Government employees? The same provision that is in the Taft-Hartley Act on that. Do you oppose putting that into the Thomas bill?

Mr. GREEN. Yes, I don't see that there is any need for it in the bill.

Senator DONNELL. Are you in favor of Government employees having the right to strike?

Mr. GREEN. No. We have stated our position on that, Senator, and that is that we realize that the Government employees can't engage in strikes like those employed in private industry and that they must settle their differences and work out their wage problems with the Government through legislation and otherwise.

I think the Government employees' organizations like the letter carriers and post-office clerks, and so forth, have a no-strike clause in their constitution.

Senator DONNELL. Which is very commendable, do you not think?

Were you associated with Mr. Samuel Gompers in September 1919?

Mr. GREEN. Yes, sir; I was a member of the executive council.

Senator DONNELL. Do you remember the receipt by him of a telegram from Mr. Coolidge on that date, Calvin Coolidge, reading:

There is no right to strike against the public safety by anybody at any time anywhere.

Do you remember that telegram?

Mr. GREEN. I don't remember that. That is too far back. But I was associated with him at that time.

Senator DONNELL. You do remember Mr. Coolidge sending something of that general nature to Mr. Gompers?

Mr. GREEN. I recall that was published at that time.

Senator NEELY. What did Mr. Gompers say to that?

Mr. GREEN. Mr. Gompers' attitude was the same as mine, as I have expressed it here.

Senator DONNELL. If you and Mr. Gompers and Mr. Coolidge all concurred that there isn't any absolute right to strike—by the way, Mr. Coolidge was talking at that time about the policemen up in Boston, was he not?

Mr. GREEN. A police strike, yes.

Senator DONNELL. Is there any objection on your part, being in accord like that in your views, to their being contained in the Thomas bill

a section identical with that in the Taft-Hartley bill which prohibits strikes by Government employees?

Mr. GREEN. We don't believe that policy should be determined by legislation.

Senator DONNELL. That is, you don't want injunctions in these various functions and you don't want the legislative branch of the Government to interfere in this matter; is that right?

Mr. GREEN. I have made my position clear.

Senator DONNELL. Do you have any objection to the retention of the provision in the Taft-Hartley Act requiring the filing of financial statements by unions?

Mr. GREEN. There is no objection on our part to filing financial statements. In fact, we do that. That is followed without law and it will be followed without any law.

Senator DONNELL. And there again you don't think there ought to be any legislative measure?

Mr. GREEN. There is no need for it in the law.

Senator DONNELL. Do you have any objection to a provision being put in the Thomas bill that prohibits terminating contracts between management and labor without a 60-day notice?

Mr. GREEN. I don't think there is any need of that being in a law. It is a matter of negotiation between employers and employees, but we favor adequate notice, 30 days, 60 days, whatever seems to be right, before a contract is terminated.

Senator DONNELL. You don't have any objection to the provision in the Thomas bill itself, do you, which says that it shall be an unfair labor practice for an employer or a labor organization to terminate or modify a collective-bargaining contract covering employees in an industry affecting commerce unless the party desiring such termination or modification notifies the United States Conciliation Service of the proposed termination or modification at least 30 days prior to the expiration date of the contract or 30 days prior to the time it was proposed to make such modification or termination, whichever is earlier? You have no objection to that?

Mr. GREEN. It is in the bill.

Senator DONNELL. If it is in the bill, it is all right?

Mr. GREEN. What I pointed out was that the bill requires notice to be given to the Conciliation Service. What I suggested was that it require them to notify the employer.

Senator DONNELL. That is what the Taft-Hartley Act does, doesn't it?

Mr. GREEN. I don't know.

Senator DONNELL. Section 8 (d) of the Taft-Hartley Act provides that very thing. That is correct, isn't it?

Mr. GREEN. There is no objection to that.

Senator DONNELL. You would have no objection to that being in, would you?

Senator PEPPER. Would the Senator yield?

Senator DONNELL. Yes.

Senator PEPPER. Is the Senator fully acquainting the witness with the differences in penalties provided in the Thomas bill as against those provided in the Taft-Hartley Act?

Senator DONNELL. I didn't ask him about the penalties. I am asking about the requirement that no contract shall be terminated by the parties without a 60-day notice.

Senator PEPPER. The Senator was certainly giving the impression to the witness that the two provisions were the same and, therefore, if it was in the Thomas bill, you would have no objection.

Senator DONNELL. I didn't leave that impression.

Senator PEPPER. The witness should be acquainted with the fact that the penalties are different.

Mr. GREEN. The policy that is to be followed is different than that prescribed by in this law?

Senator PEPPER. Yes.

Senator DONNELL. The witness is familiar with the Taft-Hartley Act and knows this without my telling him what is in there. There is a provision in the Thomas bill which requires a notice of termination to be given to the Conciliation Service at least 30 days prior to the expiration date.

In the Taft-Hartley Act it is a 60-day provision, and it does the very thing Mr. Green suggests, namely, it requires that the notice be given to the employer.

Senator PEPPER. Oh, yes, but the penalty for noncompliance—

Senator DONNELL. I am not talking about penalties.

Senator MORSE. Will the Senator from Missouri yield?

Senator DONNELL. Not for a moment, please. In 8 (d) (1) the language is:

Serves a written notice upon the other party to the contract of the proposed termination or modification 60 days prior to the expiration date thereof, or in the event such contract contains no expiration date, 60 days prior to the time it is proposed to make such termination or modification.

I am not quarreling with Mr. Green about the punishment. The provision is precisely as I understand what was suggested. You have no objection to that, do you?

Mr. GREEN. Thirty days' notice be given an employer before a strike notice?

Senator DONNELL. You prefer 30 days instead of 60 days?

Mr. GREEN. Yes.

Senator DONNELL. I yield to the Senator from Oregon.

Senator MORSE. I was going to suggest, if the Senator from Florida is not satisfied with the answer of the Senator from Missouri, he should proceed to examine on his own time, because by such interruptions he is only consuming the time of the Senator from Missouri.

Senator DONNELL. That is very kind of the Senator. That is correct.

Senator PEPPER. Any time consumed by anybody on this side of the table, whether 1 second or 1 minute or 10 minutes is charged to this aisle.

Senator MORSE. The Senator is mistaken.

Senator DONNELL. It goes against the party who yields, so I respectfully decline to yield for that reason, Senator.

Mr. Green, I want to ask you: Do you have any objection to the provision of the Taft-Hartley Act that—

The expressing of any views, argument, or opinion, or the determination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this act, if such expression contains no threat of reprisal or force or promise of benefit?

Mr. GREEN. That is the free-speech section?

Senator DONNELL. Free speech. Do you have any objection to that?

Mr. GREEN. The right of employers to express their views and so forth?

Senator DONNELL. Yes.

Mr. GREEN. The trouble has been——

Senator DONNELL. I say, do you have any objection to that?

Mr. GREEN. How is that?

Senator DONNELL. Do you have any objection?

Mr. GREEN. Not if it is carried out in spirit, in letter, and in principle.

Senator DONNELL. You have no objection to the provision I have read?

Mr. GREEN. No; but the trouble has been, Senator, that it has been violated and these employers that bring in strikebreakers wipe out our unions, go beyond free speech.

Senator DONNELL. Then, Mr. Green, if there is a violation of the law I think that you are perfectly justified.

Mr. GREEN. We have learned that under the operation of the Taft-Hartley law.

Senator DONNELL. I would say if there is a violation of any provision of the Taft-Hartley Act by the employer, you are thoroughly justified.

Mr. GREEN. Well, it is a very difficult thing to get out of that twilight zone——

Senator DONNELL. Well, I understood you to say you are not objecting to freedom of speech of the employer to express his views, argument, or opinion as expressed in the Taft-Hartley Act. Is that right?

Mr. GREEN. If he confines himself to the spirit and the letter.

Senator DONNELL. Of the law?

Mr. GREEN. The purpose and the principle.

Senator DONNELL. As set forth in the Taft-Hartley Act?

Mr. GREEN. It might be set forth in the new bill.

Senator DONNELL. Well, I read you this one, and ask if you have had any objection to that. I want to know whether you had any objection to what I read to you.

Mr. GREEN. My objection to it in the Taft-Hartley law is that it is linked and interlinked, and makes them intermixed with all these other sections of the act, and I do not like the act or any section of it.

Senator DONNELL. Well, I get your point, Mr. Green. [Laughter.]

Mr. GREEN. All right, I will wait and see how you vote.

Senator DONNELL. Now, Mr. Green, we have already discussed this anti-Communist affidavit. You do have a slight objection, I understand—I am using that word “slight” jocularly—to the prohibition against a labor union making political contributions. You strongly object to that?

Mr. GREEN. Senator, before I answer that, why did you exempt employers from being required to file Communist affidavits?

Senator DONNELL. I think you are exactly right.

Mr. GREEN. Why did you do it, I ask you?

Senator DONNELL. I do not know; I cannot recall; I do not know why it was——

Mr. GREEN. It may have been because of your hostility to labor.

Senator DONNELL. Because of hostility?

Mr. GREEN. Yours. You did not think of the other fellow. It is all against labor, the whole thing against labor.

Senator DONNELL. I think your point is well taken. I may say this: I think your point is well taken.

Mr. GREEN. All right.

Senator DONNELL. Just a minute, please.

Mr. GREEN. I am glad we are in agreement on one thing.

Senator DONNELL. Yes, sir, we are; we are in hearty agreement on this point. Your point is well taken, I think, in saying that there should be a provision requiring the employer to file the anti-Communist affidavit. I have no objection to taking up the requirement for filing the Fascist affidavit, and have so expressed myself in this committee on the 1st day of February I think it was, in the hearing the day after Mr. Tobin had given his testimony.

Mr. GREEN. I see.

Senator DONNELL. You do have objection, though, as I understand it, to a prohibition against a labor union making political contributions. You think labor unions ought not to be prohibited from that; is that right?

Mr. GREEN. Oh, I have objections to that section of the Taft-Hartley law—

Senator DONNELL. You say you have objections?

Mr. GREEN. Oh, yes, uncompromising objections.

Senator DONNELL. I now want to ask this. We can argue on this question. Those who know about it, like yourself, could profit from such knowledge. I will not take much time asking you about this, but section 13 of the Taft-Hartley Act has quite a difference between it and the Wagner Act, and I want to read you what the Wagner Act said, and then I want to read you what the Taft-Hartley Act said. The Wagner Act says:

Nothing in this act shall be construed so as to interfere with or impede or diminish in any way the right to strike.

That is the Wagner Act. In the Taft-Hartley Act it reads this way—I will say that all the language of the Wagner Act is included in section 13 of the Taft-Hartley Act, so the total of it reads this way, and it changes the meaning quite materially:

Nothing in this act, except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike or to affect the limitations or the qualifications on that right.

In other words, the Taft-Hartley Act refers to limitations and qualifications on the right to strike. I want to ask you whether or not you recognize that there is any qualification or limitation on the right to strike, or do you think labor has an unlimited, unqualified right to strike?

Mr. GREEN. I think labor has the right to strike, unqualified and unreservedly.

Senator DONNELL. Very well.

Mr. GREEN. But that does not mean that they should exercise that right except under proper circumstances and conditions.

Senator DONNELL. You disagree, then, I take it, with this observation of the Supreme Court in *Dorchey v. Kansas* (272 U. S. 306, citation 311):

Neither the common law nor the fourteenth amendment confers the absolute right to strike.

You disagree with that, is that correct? That is Justice Brandeis, by the way, who said that.

Mr. GREEN. I could not acquiesce in such a decision as that because I think the Supreme Court of the United States has decisions in contradiction to that, and I do not think the Supreme Court has ever passed on that.

Senator DONNELL. That is the Supreme Court. I just read Justice Brandeis' remark.

Mr. GREEN. You mean the Kansas court?

Senator DONNELL. This is the Supreme Court of the United States in the case of *Dorchey v. Kansas*.

Mr. GREEN. Oh, I see.

Senator DONNELL. In that——

Mr. GREEN. Well, I do not agree.

Senator DONNELL. It was held solely for the purpose of coercing employers to pay a disputed claim of a former employee, a member of the union, Justice Brandeis, in the course of the decision said:

Neither the common law nor the fourteenth amendment confers the absolute right to strike.

Mr. GREEN. That latter I do not know a thing about, but where it says that neither the fourteenth amendment nor——

Senator DONNELL. Nor the common law.

Mr. GREEN. Confers upon labor the right to strike?

Senator DONNELL. I will read it again:

Neither the common law nor the fourteenth amendment confers the absolute right to strike.

Mr. GREEN. Well, that I do not agree with.

Senator DONNELL. You do not agree with that. Very well.

Now, Mr. Green, just one other question on these different provisions of the Taft-Hartley Act. You object, do you—I know you do, but I just want to ask you a word or two about it—to the provision in the Taft-Hartley Act making it an unfair labor practice for a labor organization or its agents to refuse to bargain collectively with an employer provided it is the representative of his employee subject to the provisions of section 9 (a)? You object to that provision?

Mr. GREEN. I agree with it in principle, but I object to it being in the law.

Senator DONNELL. Yes, sir; in other words, you thought is there that you do not want any legislative interference requiring it to be done.

Mr. GREEN. It is our policy that all unions shall bargain collectively with employers. In fact, as I told you yesterday, that is our primary purpose and primary objective, because our people get down on their knees and beg employers to bargain with them and they will not do it, but why put it in a statute?

Senator DONNELL. Yes.

Mr. Green, referring for a moment to the Mediation and Conciliation Service, you favor putting that back into the Department of Labor?

Mr. GREEN. Yes.

Senator DONNELL. Of course, you and I are both familiar with the section creating the Department of Labor. It says:

The purpose of the Department of Labor shall be to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions and to advance their opportunities for profitable employment.

You are familiar with that?

Mr. GREEN. That is all right, I think. By putting the work of the Mediation and Conciliation Service into the Department of Labor, it will bring about a settlement of disputes between employers and employees.

Senator DONNELL. Very well, and therefore you would like to have that in the Department of Labor?

Mr. GREEN. I know conciliators. They are earnest hard workers, and as a rule they are never biased. They seek to find a basis of accommodation and a settlement of disputes.

Senator DONNELL. Now, conciliation is a process between labor and employers; is that right?

Mr. GREEN. That is right.

Senator DONNELL. Therefore, both parties have an interest in the matter; do they not?

Mr. GREEN. Both parties have an interest.

Senator DONNELL. Yes. Would you be desirous of placing the Mediation and Conciliation Service over in the Department of Commerce?

Mr. GREEN. No.

Senator DONNELL. But you do want it in the Department of Labor?

Mr. GREEN. Because that is contradictory, but we have never asked—there are agencies in the Department of Commerce that deal with questions affecting management—that they should be taken out of there.

Senator DONNELL. I did not get that. What was that?

Mr. GREEN. Agencies that deal with problems affecting employers and business be in the Department of Commerce; questions affecting labor be in the Department of Labor.

Senator DONNELL. Does not mediation also have to do with management as well as labor?

Mr. GREEN. Well, do you mean to imply—

Senator DONNELL. Judgment, does it not?

Mr. GREEN. Does it what?

Senator DONNELL. Does not the subject of mediation deal with a subject matter in which both management on one side and the employees on the other are interested?

Mr. GREEN. Oh; that is obvious; yes.

Senator DONNELL. Yes. All right. Now, I ask you, in view of that fact—I am not advocating this, but I am asking it for information—would you have any objection to the Mediation and Conciliation Service being put over under the guardianship of the Department of Commerce?

Mr. GREEN. Why, of course.

Senator DONNELL. Well, then why would not you have the same objection to it being put over into the Department of Labor?

Mr. GREEN. Because it has nothing to do with business like the Department of Commerce has.

Senator DONNELL. Very well. I am not agreeing with your statement.

Now, Mr. Green, one final point. In yesterday's discussion of the prohibition of the closed shop you made very vigorous and powerful and very eloquent observations in regard to the love which labor has

for freedom, and I can well appreciate your viewpoint and the love that all of us have for freedom in this country, at any rate, but let me ask you this: Suppose that I should perfect myself a molder, we will say. Do you have any molders in the A. F. of L.?

Mr. GREEN. Oh, yes, molders and metal polishers.

Senator DONNELL. Suppose I perfect myself as a metal polisher and I go up to a shop where they employ metal polishers, and I ask to come in, to be employed.

The man looks at me, and he says: "Well, I have a job here I would like to put you on, but I cannot do it, because you do not belong to the labor union," and so I say, "Well, I do not want to belong to a labor union; I do not want to belong to the Baptist Church; I do not want to belong to the labor union, and I do not want to belong to the Alpha Literary Society. I just do not want to belong to the union. Maybe I ought to belong, but I do not want to. I want to exercise my liberty, my right of freedom to belong to whatever I want to or stay out of anything."

He says, "I am sorry. I cannot give you a job."

I go on down the street and I find I cannot get in anywhere because it has been so thoroughly unionized that all the industries all over the country—everybody—which is your ideal, I take it—are so organized, they are all closed shops on metal polishers, and I cannot get a job.

Now, have I not lost my liberty and my freedom to work when I have perfected myself in that line of work, when I want to work, am anxious to work? Have not I lost my liberty of choice when I have got to join a union that I do not want to join just because somebody else says I have to? Is not there an equal ground there for the same eloquent appeal to the rights of freedom that you made yesterday in advocacy of the closed shop?

Mr. GREEN. But he has a right to conform to the rules and conditions established at the plant. Why should the rules and conditions established at a plant by a hundred workers, all agreed, be set aside for one man?

Now, if he does not want to work there under those conditions, let him go elsewhere and find work where he can work as a nonunion worker. Now, that is all.

Senator DONNELL. Suppose he cannot find such a job?

Mr. GREEN. He can find one because there is only about one-third of the workers in this country organized.

Senator DONNELL. What proportion of the printers are organized?

Mr. GREEN. I do not know what proportion.

Senator DONNELL. About?

Mr. GREEN. Probably a larger proportion.

Senator DONNELL. About how large a proportion?

Mr. GREEN. Generally speaking?

Senator DONNELL. What proportion, would you say?

Mr. GREEN. He can find work elsewhere if he does not work under those conditions.

Senator DONNELL. Mr. Green, suppose that I am a printer.

Mr. GREEN. Yes.

Senator DONNELL. And I go to the Chicago Tribune or I go to the St. Louis Democrat, and I cannot get on them, and I go all around and I find there is a tremendous percentage of the plants that are organized

by labor. I am going to be faced with not getting a job; is that not true?

Mr. GREEN. It is like a man going to the Elks and saying "I want to be a member of the Elks." "Well, you can be a member if you do this." "Oh, no, I cannot do that."

Then, the Elks must set aside their whole rules. He wants to go to a church and take communion. They say, "You cannot take communion unless you join the church." "I am not going to join the church."

Now, you want him to have communion, do you?

Good God!

Senator DONNELL. You take the very illustration that you have used in regard to the church and the Elks. I do not have to join the church; I do not have to join the Elks.

Mr. GREEN. That is minority rule.

Senator DONNELL. Because of the fact that we have freedom and liberty in the country.

Mr. GREEN. Let him exercise his freedom and liberty and go away as a nonunion man, if he wants to.

Senator DONNELL. If there are not any places open in the metal-polishing industry, he has got to go over and change his job and change his profession; doesn't he?

Mr. GREEN. What?

Senator DONNELL. I say, if there are not any jobs, nonunion jobs available——

Mr. GREEN. You say "If." That "if" is not in it. There are plenty of them.

Senator DONNELL. You are trying to organize just as much as you can.

Mr. GREEN. Yes; and we will if we can.

Senator DONNELL. Now, I guess we had better not take much time on this. I am conscious of the time element.

I would really like to talk to you a minute, or get you to talk to me, about this alleged closed shop of lawyers that has been mentioned here, and curiously enough out in Springfield, Mo., last Saturday, a group of labor organizations came so courteously and nicely to me, and we had two conferences during the day. We had a fine time. We did not agree on hardly anything. We did on some things.

At any rate, these men did bring up this closed-shop business of the lawyers, and they made a presentation of it, and they honestly believed, I thought, that there was an analogy. Well, I think it would take us all morning to discuss that.

Senator MURRAY. Will the Senator yield for a moment?

I would be glad to arrange a private conference between you and the witness.

Senator DONNELL. I know I would like to talk to Mr. Green, and I want to express my appreciation for his very great patience at this time. I want to say, in conclusion, to my mind there is not any analogy at all. In the case of the lawyers, in the first place, you do not have to belong to a lawyers' association.

Mr. GREEN. You do out in California.

Senator DONNELL. You do not in my State. I just know about my State.

Senator NEELY. You do in West Virginia.

Mr. GREEN. The bar association; before you can practice?

Senator DONNELL. Just a minnte; you have to become admitted to the bar, which is entirely different from the bar association. For instance, I belong to a bar association. There are two lawyers' associations in St. Louis. I belong to one of them and do not belong to the other. I belong to the Bar Association of St. Louis. I do not belong to the Lawyers Association of St. Louis.

Now, I have not checked the law on this. I will have to look it up in order to make certain.

Mr. GREEN. Check up on it.

Senator DONNELL. I will be glad to. You see my thinking on that. As I see it, you simply have this situation: The legislature and the courts have recognized that it is to the best interest of the people of our State that nobody shall practice law unless he has passed an examination given by the board of examiners of the supreme court.

Mr. GREEN. Yes.

Senator DONNELL. Now after I have passed that examination I can practice law and not before, and you would not want it otherwise. You would not want a lot of fellows going out and practicing law.

Mr. GREEN. I have no complaint against that.

Senator DONNELL. I can go down to St. Louis and take my examination and practice. I am not sure whether automatically I become a member of some bar association. Maybe I do. I am not sure about that, but the important thing is this, as I see it. I do not have to go over there and join that lawyers association in St. Louis. I have never done it. I have no present intention of doing so; there is nothing against it, but I just do not want to join it. I belong to the Bar Association of St. Louis, have been a member of it for many years, and the American Bar Association, but I am simply a member of the bar and that one association.

When I am a member of the bar, I am entitled to practice, and I get into the bar not by the action of some labor union saying, "We will admit you or not admit you," not by the action of some bar association that says, "We will admit you or not admit you." I get in by passing an examination prescribed by the supreme court of Missouri, and I think there is a difference.

Mr. GREEN. I will be glad to talk to you about it.

Senator DONNELL. I just want to conclude this examination by expressing my appreciation both to the members of the committee and to Mr. Green, particularly to Mr. Green, because he has been so nice about the examination both yesterday and today, and I am very grateful to you. I have really very much enjoyed the privilege of getting a little better acquainted with Mr. Green.

Mr. GREEN. Thank you, Senator. I have been very glad to respond to the examination that you have put me through. It has been very interesting to me and I have enjoyed it immensely.

Senator MORSE. Mr. Green, I have a few questions I want to ask by way of summary. The first group will bear upon labor's attitude toward the injunction, because I think it important that we have as clear as possible in this record the reasons for labor's opposition to the injunction, which reasons, as you know, in the main, I share.

Mr. GREEN. Yes.

Senator MORSE. My first question is this: It is true, is it not, that labor looks upon the injunction as an employer weapon?

Mr. GREEN. Very largely so; yes, sir.

Senator MORSE. And it is important to understand labor's deep-seated opposition to the injunction.

Mr. GREEN. Yes.

Senator MORSE. To clearly understand that, whether anyone agrees or not, the fact is labor considers the injunctive process as an employer device for weakening unions.

Mr. GREEN. That is right. It developed out of the use of the injunction by employers, the application for injunction by employers during the years when we had to fight so hard.

Senator MORSE. Is it true that labor considers that the granting of an injunction in a specific case prejudices the union involved in the injunction in public opinion?

Mr. GREEN. That is right.

Senator MORSE. When the courts issue the injunction there is a tendency on the part of the public to assume that labor must be at fault since otherwise the court would not have issued the injunction?

Mr. GREEN. They have prejudged the case.

Senator DONNELL. Might I just interrupt? In connection with this bar-association matter, I want to say that we have an integrated bar in Missouri and automatically by passing the examination, as I understand it, or by being admitted to the bar, you become a member of that integrated bar. I just wanted to put that into the record.

I will be very happy to confer with you at any time that we can find it convenient, both of us, if we can, on that subject.

Pardon me, Senator.

Senator NEELY. Senator Morse, will you let me on our time make one observation in respect to what Senator Donnell has just said?

Senator MORSE. On your time.

Senator NEELY. On our time. Senator Donnell, if your integrated law still is the same as the one that was passed by the legislature of West Virginia, no matter if you had practiced law for 40 years and had received a degree from every law school in the land, you could not have continued to practice after that law went into effect without becoming a dues-paying member of the integrated bar association.

I practiced law for more than 30 years and was a member of the West Virginia State bar, but in order to practice or preserve my right to appear in a court of record, I had to become a member of the undemocratic integrated bar association, which is the ultimate Thule of the closed shop.

All of my previous rights that I had won by education, study, and paying dues were wiped out and I have no redress.

Senator DONNELL. I may say to the Senator from West Virginia I am not familiar with the laws of West Virginia, and I would want to check my memory on the law of Missouri. I want to say this in regard to the law of Missouri.

I pay dues every year to the circuit clerk of the city of St. Louis. I do not know whether that money goes to the bar or State or where it goes. I assume by going to a governmental official, that certainly the Government itself in some way gets some portion at any rate of that.

I do not recall ever having to apply for membership in the bar as distinguished from the bar association. I think that when this integrated bar came into existence, provided I paid my dues, I automatical-

ly became a member of the integrated bar. I will have to check, as I say.

Senator NEELY. Let me add that I know of no corporation lawyer in West Virginia who had cried out against the closed shop for labor who did not favor the integrated bar bill which provided the closed shop for attorneys.

Senator WITHERS. May I ask the Senator from Missouri a question?

Senator DONNELL. You may.

Senator WITHERS. Senator, you made this observation and I am making this observation.

Senator PEPPER. I take it this is on our time.

Senator WITHERS. Yes, on our time. Referring to the jurisdiction in Federal courts in equity matters, what is the extent of equity distribution in Federal courts?

Senator DONNELL. What is the extent of it? That is a very difficult question to answer.

Senator WITHERS. Do they have any equitable jurisdiction except what is granted by the Constitution or by Federal legislation?

Senator DONNELL. I would not answer that categorically. My impression is they have only such equitable jurisdiction as is conferred by legislation. In fact, in article 3 of the Constitution it says the judicial power shall extend in all cases in law and equity under the constitutional laws—I am not so sure, on reading that section but that the power extends to all cases in law and equity arising under the laws of the United States, and I am not at all certain that it is necessary that statutory authority be found for each specific action taken by the court. I have never studied that question.

Senator WITHERS. I want to ask you now in connection with that, then you think the Federal courts have some implied powers?

Senator DONNELL. Senator, I would not undertake to answer that without studying it. I have never had occasion to look into that.

Senator WITHERS. I just want to know how far you have gone into that question, since you have mentioned it so many times, the powers of the courts.

Senator DONNELL. Yes.

Senator WITHERS. Then you are not sure they have any power except as is granted under the Constitution or by Federal legislation?

Senator DONNELL. I am not certain of it, Senator. I would have to look it up.

Senator WITHERS. So then before injunctions could be granted by the courts, it is possible or may be probable there would have to be some express authority for that?

Senator DONNELL. Yes, it is entirely possible, although I am not certain. I would like to say this in connection with that. I think that is an important question and I think it bears on this inherent power.

Senator WITHERS. I thank you very much.

Senator DONNELL. I want to say first I know of no authority that gives the Executive the inherent power that is mentioned by the Attorney General in his letter.

In the second place, I have indicated previously that I think that any power that is to be given to the President along that line should emanate from the legislative branch, and in the third place, I have mentioned the fact that merely because the Executive may be granted

power, it does not follow that the legislative branch, the judicial branch, has any jurisdiction unless it is granted by statute.

Now I am making those statements particularly with respect to the power of the judiciary, subject, however, to the right to check.

Senator WITHERS. We have been in pretty deep water all the time we have been talking about the power of the courts to this witness.

Senator DONNELL. I do not think it is deep water at all along the line of the inquiry we have been talking with Mr. Green about. I have been trying to find out, and I have not had much difficulty in finding out——

Senator WITHERS. How did they make the injunction with respect to the coal miners' strike, by what authority?

Senator DONNELL. Now, which one of the coal mine strikes are you talking about?

Senator WITHERS. The last one, the one under which the mines were assessed.

Senator DONNELL. Under the Taft-Hartley law. I want to say this in that connection. I have not studied this decision. As a matter of fact, Senator Neely came to me very kindly on the floor of the Senate the other day, after I had referred to 330 U. S., and pointed out that there is a subsequent case that I doubtless should have remembered and did not remember. The subsequent case is under the Taft-Hartley law. I have not studied that case.

Senator WITHERS. I am talking to you about this case. This is the one I am talking about.

Senator DONNELL. The one I can answer you on is the first case, in which the authority of the court was derived from the War Labor Disputes Act, namely, the Smith-Connally Act, and no other authority of the Executive was granted except under that.

Senator WITHERS. I am asking about this particular strike. Now let me ask you this further question: How was the Coolidge strike settled, the police strike in Massachusetts? By what authority did the governor settle that strike?

Senator DONNELL. I do not recall, Senator, how it was done.

Senator WITHERS. He exercised some executive authority there. You do not know whether that was implied or what?

Senator DONNELL. I beg your pardon.

Senator WITHERS. You do not know whether that was implied authority?

Senator DONNELL. I do not know what the constitutional provisions were. I know this that Secretary Tobin, when Governor of Massachusetts, seized the street railway company, the name of which I have here—I perhaps cannot put my finger on it for the moment, but I can get it easily—he seized that, under what power I do not know, but I do not think that is decisive at all of the power of the President of the United States.

Senator WITHERS. He is an executive.

Senator DONNELL. In the case of the States, as the Senator well knows, the States of the Union have the general power——

Senator WITHERS. I grant that.

Senator DONNELL. The Federal Government has only—I think it is likewise true as to the respective branches of the Federal Government—that they in turn have only the power that is delegated to them

by the Constitution, except in the case of external affairs, foreign affairs under which, as was pointed out in the Curtiss-Wright case, 299 U. S., the President can act independently of constitutional provisions.

Senator WITHERS. We know the States exercise common-law authority. Was Mr. Coolidge President when he wrote the letter to Mr. Gompers or was he Governor of Massachusetts?

Senator DONNELL. 1919.

Senator NEELY. He was not President at that time.

Senator WITHERS. So he was not President.

Senator DONNELL. I have it down here, Senator Withers. This, by the way, is quoted from University of Pennsylvania Law Review, November 1928. The quotation I have reads:

The true rule was briefly stated by Vice President Coolidge when on the 14th of September 1919, he telegraphed to Samuel Gompers

and so forth. Now, it is entirely possible that that is merely descriptive by the author, Mr. Mason, and does not indicate what he actually was at the moment he sent the wire. I would have to look up the dates. I do not remember what he was in 1919.

Senator WITHERS. I want to ask you this question. It has never been determined as a matter of law by the courts what authority the courts might have even if granted powers by Congress to invoke an injunction, and that is an extraordinary remedy, is it not, most extraordinary?

Senator DONNELL. Well, I would not say it is an extraordinary remedy. The injunction is the customary remedy of a court of equity to enforce its views, its decisions.

Senator WITHERS. It is known in my State as—

Senator DONNELL. Extraordinary prohibition?

Senator WITHERS. This amounts to a mandamus or mandatory injunction if you require people to go to work.

Senator DONNELL. That is entirely different.

Senator WITHERS. That is mandatory.

Senator DONNELL. You can have a mandatory or a prohibitive injunction, either one.

Senator WITHERS. This is mandatory. It has not been determined that you can issue—

Senator DONNELL. Would you start your sentence again, please, Senator?

Senator WITHERS. It has never been determined by the courts that you can issue a mandatory injunction and require a man to work.

Senator DONNELL. No.

Senator WITHERS. So you do not know whether a mandatory injunction could ever be invoked to require a laborer to work?

Senator DONNELL. I am not advocating that.

Senator WITHERS. You are not?

Senator DONNELL. The Taft-Hartley Act simply says that it does not do that.

Senator WITHERS. So then you would not gain anything except time, a little time by the character of injunction that would be invoked under the Taft-Hartley Act?

Senator DONNELL. Well, we gain to this extent, that in the railroad strike, with respect to which I read earlier this morning—I do not

know whether the Senator was here or not—the National Mediation Board says that the temporary order was issued and thereby the strike was stopped. That is the gist of what it says; I know that.

Senator WITHERS. But Mr. Green said that the injunction did not stop the strike.

Senator DONNELL. He said he was not familiar with the railroad strike.

Mr. GREEN. It did not. The miners remained on strike with no change at all.

Senator DONNELL. Well, you are not talking about the railroad strike, Mr. Green. You said you did not know about that, and I read the National Mediation report, which I believe the reporter has taken with him.

Senator WITHERS. I did not want to get confused that you thought the courts had implied powers to invoke an injunction when the President would not have the implied authority to ask the courts to grant an injunction.

Senator DONNELL. Senator, I would want to study that with very great care before answering that question.

Senator WITHERS. All right.

Senator MORSE. Mr. Chairman, I want to proceed with these questions so we can get through with Mr. Green before we adjourn.

Mr. Green, labor considers, does it not, that the existence of the injunctive power causes employers frequently to refuse to bargain in good faith because in some cases they consider it good strategy to wait until the injunction issues in order to weaken the union in public opinion?

Mr. GREEN. Oh, yes; the injunction process, when it is secured by an employer, practically kills collective bargaining. There is no chance to bargain collectively while the injunction is in effect.

Senator MORSE. To reiterate, then, Mr. Green, in your many years as a labor leader, has it been your experience and observation that the power to seek an injunction in a labor dispute strengthens the employer's position in that by stalling in collective bargaining until an injunction is issued, he weakens the union in public esteem and opinion?

Mr. GREEN. Oh, yes; you put your finger upon one of the chief objections of labor to the use of the injunction.

Senator MORSE. Labor has found, has it not, Mr. Green, that as a general practice when the Government sets up any type of compulsory machinery in the field of labor relations, there is always the danger that resort to the machinery or the possibility of resorting to its use will stall collective bargaining if either side thinks it may gain an advantage by doing so?

Mr. GREEN. Right you are; that is right.

Senator MORSE. And although we had during the war a War Labor Board necessitated by the circumstances of the war, it was true, was it not, that very frequently the Board itself found it necessary to protest to the parties in specific cases that they were using the Board as a substitute for collective bargaining?

Mr. GREEN. That is right; that happened.

Senator MORSE. And there were many cases, were there not, when the Board, finding that one or the other or both parties were not acting in good faith, refused to take jurisdiction over the case until they

could demonstrate to the Board that they had made an attempt to participate in good faith in collective bargaining?

Mr. GREEN. That is right; it gives them an opportunity to raise technicalities.

Senator MORSE. And it is the position of organized labor, is it not, that it wants to keep Government compulsion at a minimum in labor relations in order to make it possible for the maximum amount of good faith collective bargaining?

Mr. GREEN. Yes, make collective bargaining a complete success.

Senator MORSE. Now, Mr. Green, I turn to these two sections of the Taft-Hartley law on injunctions, because it demonstrates again, I think, how lawyers can differ in regard to the meaning of the sections. I want to get into the record this morning a point of view that is somewhat at variance with points of view already expressed. I turn to section 502:

Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service without his consent; nor shall the quitting of labor by an employee or employees in good faith, because of abnormally dangerous conditions for work at the place of employment of such employee or employees, be deemed a strike under this Act.

Senator DONNELL. Does the Senator have objection to incorporating at this point, the meaning of the term "strike" incorporated in section 501?

Senator MORSE. I will be very happy, Mr. Reporter, to have inserted at this point the language of the act which says:

The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slow-down or other concerted interruption of operations by employees.

And I would emphasize that the definition itself stresses concert.

Senator DONNELL. Three times in that sentence.

Senator MORSE. Yes, and the definition of a strike does not use the word "quit" once.

Now we do have, as referred to this morning, a general rule of interpretation applied by our courts that wherever possible, within reason, the courts seek to interpret a statute as being consistent with itself.

Mr. GREEN. Yes.

Senator MORSE. Wherever, by reason or interpretation, they can resolve a doubt as to the consistency of a statute in favor of consistency, they will so resolve it.

Now, I go to this very important section, 208, and it reads, Mr. Green, as follows:

Upon receiving a report from a board of inquiry, the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lock-out or the continuing thereof, and if the court finds that such threatened or actual strike or lock-out—such concert of action.

Mr. GREEN. Concert of action.

Senator MORSE. On the part of the employées, or the continuing thereof, or if the court finds that such threatened or actual strike or lock-out the court finds in its discretion—

MR. GREEN. Yes.

Senator MORSE. The basis of its judgment, its interpretation of the facts:

(i) Affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations or engaged in the production of goods for commerce; and

(ii) If permitted to occur or continue—

what? Strike, concerted action of men—

will imperil the national health or safety, it shall have jurisdiction to enjoin any such strike or lock-out—

enjoin the concert of activity on the part of the workers.

MR. GREEN. That is plain.

Senator MORSE [reading]:

Or the continuing thereof, and to make such other orders as may be appropriate—

such other orders.

Senator DONNELL. As may be appropriate.

Senator MORSE. As may be appropriate; that it deems appropriate in the exercise of its judicial discretion.

(b) In any case, the provisions of the Act of March 23, 1932, entitled "An Act to amend the judicial code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," shall not be applicable—

and so on.

Now do you share my view—and if counsel has advised you, so state—that section 208 does seek to empower the courts of this land, that have jurisdiction granted under this act, to enjoin a concert of action on the part of workers who call a strike?

MR. GREEN. Positively so. I am in full accord with that interpretation. That is right. No other interpretation can be placed upon it.

Senator MORSE. I want to say to the reporter that when I was reading section 208, I read section 208 (a) and the subdivisions of (a). Following the reading of that section then insert in the record all the rest of section 208.

Senator DONNELL. Would the Senator mind repeating that?

Senator MORSE [reading]:

(c) The order or orders of the court shall be subject to review by the appropriate circuit court of appeals and by the Supreme Court upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 29, secs. 346 and 347).

Senator WITHERS. Would the Senator mind me asking one question on my time?

Senator MORSE. I would rather not.

Senator WITHERS. I would like to ask a question later then.

Senator MORSE. Yes; I reserve your right to ask a question. I want to get this thought out.

You share my view then that under 208—and may I say it is complete news to me that that was not the intent of Congress when it passed 208, although it was not my intent because this provision is one of the reasons I would not vote for the law—it was the intent of Congress in emergency disputes to give such injunctive power to the

court to enjoin the strike, to enjoin the concert of action, to enjoin the employees? Is that not your understanding?

Mr. GREEN. That is my understanding; yes.

Senator MORSE. And I want to say that I think it will be great news to the American people that that is not what the Taft-Hartley law was intended to do. I think as a legal matter it does it, and that all we have to do is wait for the courts to apply it, if we do not change the provision. It certainly was not the intention that only officers of the union should be enjoined, because if that is all we intended to do, it would have been a simple thing to say so.

Mr. GREEN. Everybody that has to participate in the strike, all the workers.

Senator MORSE. Congress did not have to put into the law language giving the court power to enjoin strikes if its intention was just to enjoin officers of the union for calling the strike. It can say so.

Senator DONNELL. There has been no such contention made by me that it only applies to officers of the union.

Senator MORSE. I understand that. In fact I do not want the Senator from Missouri to assume that any of the argument I am making here is applicable to any particular thing that he says specifically. I am talking here about this.

I think these hearings are beginning to show a conflict in point of view as to what section 208 means. I think section 208 clearly means that a strike can be enjoined. A strike is a concerted action by workers.

Mr. GREEN. That is our understanding of it.

Senator MORSE. The court under section 208 has jurisdiction, if it wants to exercise it, by issuing other orders that it considers appropriate—

Mr. GREEN. Appropriate, yes.

Senator MORSE. To say to free workers in America: "We will give you a choice of either working for employers under their directions for such period of time as is covered by the emergency section of this act, or go to jail for contempt."

Mr. GREEN. That is what they did in the strike at Oak Ridge, Tenn.

Senator MORSE. I think it is as clear as the nose on my face, which I think is pretty big.

Mr. GREEN. Compulsory service, every one of them, not only but one, two, three, four, or five, and under that section compelled to work against their will for 80 days, and any man in America that is compelled to work against his will is being subjected to slavery. That is all there is to it.

Senator MORSE. Let me come back to section 502 and see if you share my interpretation of it. The language of section 502 which uses this word "quitting" was put in there to make clear to the individual worker that if he wants to quit his job, he can quit.

Mr. GREEN. Well, sure.

Senator MORSE. And it thus opens up the door for the employer to follow strikebreaking practices by getting people in there to take his place, which is just exactly what I think we should not seek to accomplish by statute as an aid to employers in this country. If the employee quits, that is if he gives up any claim to any further rights to that job, section 502 says "we will not do anything about him. He

can quit, but if he strikes,"—they do not use the word "strike" in that section—"if he strikes, then he comes in under section 208."

Mr. GREEN. Under 208. It is amazing the implications that are in this bill.

Senator MORSE. And in my judgment, if an argument is made that the court cannot enjoin a strike under section 208 because of the language in regard to the right of an employee to quit under section 502, the court will say "Yes, we will read this from the four corners and we will read it as we always try to read statutes in an attempt to find the consistency that Congress must have intended." They certainly did not intend to be inconsistent in the statute." The court would lay great stress on the fact that section 502 talks about a man giving up completely his rights to the job by quitting. In that case he can go his way, but when he goes his way he plays right into the employers' hands of not having any bargaining power left.

Mr. GREEN. That is right.

Senator MORSE. He has some rights still left under the Taft-Hartley law, but not many, because of the sections of the Taft-Hartley law that, do not even give him a chance to vote any longer in some situations as he had under the Wagner Act.

He cannot even be counted any longer as an employee in the sense that he is going to have voting privileges for representation purposes. You share my point of view on that?

Mr. GREEN. Absolutely, with no reservations, and you have brought out one of the finest points that has ever been brought out in consideration of this bill.

Senator MORSE. I am setting out one of the basic fears of labor, if I know it, of the Taft-Hartley law.

Mr. GREEN. Why you certainly are.

Senator MORSE. And I am setting out one reason, am I not, although I do not like your adjective, but that is up to you, why labor has been talking about it as a slave labor law?

Mr. GREEN. That is it exactly. You have made that strong point.

Senator MORSE. Labor has feared that the tremendous discretionary power that is given to the courts under the injunctive sections of the Taft-Hartley law has the effect of giving to the court the power to issue such orders as it may think appropriate under circumstances not specifically set out in the act.

Mr. GREEN. That is right, you bet your life.

Senator MORSE. Well, there is something said here about the Goldsborough decision. I have read the Goldsborough decision and I do not find in it any language that supports the contention that a court does not have the power to issue an injunction against the workers. The fact that the court did not issue it against the workers, but did issue it against the officers of the union, is not basis for a conclusion that under this Act it could not issue it against the workers, is it?

Mr. GREEN. None whatever.

Senator MORSE. I do not know what another court will do.

Mr. GREEN. No; that is right.

Senator MORSE. I think that court went further than I want to give a court power to go in a labor dispute. As you have pointed out, if you have a strong union, if you have a group of men that will, as I think you said, stand up against the wall in support of the union offi-

cers or, as it is sometimes said, will walk through fire to defend their union, you are not going to settle the dispute by an injunction.

Mr. GREEN. Absolutely, never.

Senator MORSE. There are not enough jails in this country to hold the workers if organized labor ever takes the position that rather than obey the injunction they will make martyrs out of themselves. I do not want to see that kind of class-consciousness in this country developed by the use of the injunctive process.

Prior to the Norris-LaGuardia Act that is exactly what was happening in this country. Organized labor was demonstrating to the Congress a determination to go down the road to martyrdom against government by injunction.

Mr. GREEN. Absolutely.

Senator MORSE. Congress, seeing the handwriting on the wall, passed the Norris-LaGuardia Act.

Mr. GREEN. That is right, they went to jail.

Senator MORSE. I do not want to go back to the period prior to the Norris-LaGuardia Act when labor felt that the courts were exercising a weapon in behalf of the employers and were lining up in favor of one class in this country against another. You never preserve democracy in America that way.

Mr. GREEN. You are right, Senator.

Senator MORSE. Well, now, let me go back to this free speech matter, because I am not sure I understand your position on section 8 (c).

I understood you to say in your testimony this morning that you had no objections to the employers having the right to discuss with their workers their views in regard to unionization, and as far as I am concerned I insist that they have that right, and as you know in 1947 it was in the so-called Morse-Ives bill.

Mr. GREEN. I think it was, yes.

Senator MORSE. And in the Morse-Ives bill we set out what had already become the decisions of the National Labor Relations Board in respect to the employers' rights, but I felt it ought to be made perfectly clear in statutory language, and we wrote it into our bill. But section 8 (c) of the Taft-Hartley law contains this language:

The expressing of any views, argument or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice.

I put the question to you that I put to some witnesses preceding you. Suppose the case where on Monday the employer calls his employee, Jack, in and says: "Jack, I understand there is going to be an organizing meeting tonight. I want you to know that I hope you will not join the union. I do not want a union in my plant. I do not think it is in your interest to have a union in this plant. I just hope you do not join the union."

That is all he says, which he has a right to say. I am going to protect the employer in the right to that kind of free speech.

That night Jack goes to the union meeting. He listens to the union case. He decides his best interests would be served by joining the union, and he signs the application blank. The next day the employer calls him in and says: "Jack, I have decided to hire for your job the son of a neighbor of mine who lives across the street. Go down to the time clerk and get your time and your check."

Is it your understanding and labor's understanding that under this section of the Taft-Hartley law that I have quoted, in a charge against that employer alleging Jack was fired because he joined the union, the conversation that took place between the employer and Jack on Monday cannot be introduced in evidence?

Mr. GREEN. Well, we do not want anything like that. We would not approve any section like that, Senator.

As I repeatedly said, we want the Taft-Hartley law repealed from beginning to end, period. There is not a good section in it.

Senator MORSE. My question is: You testified this morning, if I understood you correctly, that you have no objection to so-called employer free speech clause?

Mr. GREEN. Providing—

Senator MORSE. You did not mean, did you, that you approved a section of the Taft-Hartley law which has raised great controversy as to whether or not the type of conversation between the employer and Jack in my hypothetical could even be introduced in evidence to show the motive of the employer for firing Jack?

Mr. GREEN. I should not want anything like that.

Senator MORSE. I want to make that perfectly clear. I agree with you. I want the employer to have the perfect right to call his workers together, to give them all the reasons he wants to give them as to why in his opinion their best interest is not to be found in joining a union, and to tell them why he thinks the demands on wages, hours, and conditions of employment being sought by the representatives of the union are unreasonable and against the best interests of the worker. I do not want a provision in the law dealing with labor relations that does not exist in other phases of the law, namely, that when inquiring into people's motives it is impossible to introduce evidence of motive through the conversation of the employer. His conversation is as much an act—as I said the other day—as my action in picking up an ash tray is an act.

If I, as your employer, tell you that I have my reasons as to why I do not want you to join a union because I do not think it is in your own good, Bill Green, that I think my employees will end up with working conditions and wages far worse than they have now because I do not see how I can possibly meet the competition of my competitors if I accede to the unreasonable demands of this union, I should have a right to say so.

Mr. GREEN. Yes.

Senator MORSE. And to present my proof.

Mr. GREEN. That is right.

Senator MORSE. But you also, if I fire you afterward, ought to have a right to put evidence of that conversation into the record to determine what my motives were in firing you as judged or inferred from my conversation.

Mr. GREEN. That is important.

Senator MORSE. Now, Mr. Green, this Taft-Hartley law has been discussed, has it not, in a great many workers' education meetings within the A. F. of L. since its passage?

Mr. GREEN. Oh yes.

Senator MORSE. It is true, is it not, that hundreds of A. F. of L. locals all over this country have had what you call workers' education meetings in regard to the Taft-Hartley law?

Mr. GREEN. Oh yes.

Senator MORSE. I was in Lexington, Ky., last night, and walked into Thompson's restaurant about 1:30 in the morning before plane time to get a bite to eat, and in walked an A. F. of L. representative who had just come from an A. F. of L. workers' meeting.

Mr. GREEN. That is right.

Senator MORSE. I said, "I am interested in what you talked about tonight." He told me that he was the instructor, the leader of the discussion, and he went on to explain to me that they had spent the evening—and this was about 1:30 in the morning and he had just come from there—discussing the controversy that had developed here in the Senate over the Thomas bill and the Taft-Hartley bill and the points of difference between the two bills. I said, "Is this the first time you have discussed the Taft-Hartley law?"

He said, "No, over the months we have tried to get members of our A. F. of L. locals to understand what the Taft-Hartley law does to the rights of labor."

Mr. GREEN. That is right.

Senator MORSE. And your testimony this morning is that A. F. of L. locals all over this country by the hundreds have tried to inform their members as to what the Taft-Hartley law does to their rights by specific discussion of specific sections of the Taft-Hartley law?

Mr. GREEN. That is right. That is going on continuously.

Senator MORSE. Now one more point and I am through.

Senator DONNELL. Would the Senator yield for a question?

Senator MORSE. It will take me just a second and then I will come back again. I just want to get this one other point out on this Communist affidavit.

Of course it is my view, and I have said so many times, that I think putting it in the Taft-Hartley law was an insult to the loyal labor leaders of this country who before its passage were doing a magnificent job in cleaning out Communists in their ranks. I have said further that signing the Communist affidavit does not mean a thing to a liar, and Communists are liars. Part of their whole philosophy is not to tell the truth if it serves their infiltrating purposes to lie. The actual signing of the Communist affidavit is not a satisfactory device to use against the Communist himself, but it is a very embarrassing device against the loyal labor leaders, and it has been one-sided.

If we are going to have it at all, we ought to have it two-sided, but you see I do not like the idea either of casting reflections on employers, of saying, "Well, we are going to balance this thing by making you sign anti-Fascist affidavits."

I have not any doubt that we have a sprinkling of employers in this country who unwittingly stand for certain social attitudes that, if they could put them into effect, would have the effect of creating a police state in America.

Mr. GREEN. That is right.

Senator MORSE. But they do not represent the employers of America. They are not, in my judgment, numerous enough to be even one rotten apple in a single barrel, but there are a few of them I have not any doubt that have that point of view.

Now I have been thinking about this Communist affidavit matter because I recognize you cannot go before audiences and talk about

what ought to be in a labor law without somebody asking a question, as happened at my meeting in Lexington, Ky., last night.

One is asked, "What is your attitude on the Communist affidavit?" The issue has caught the public. We are all rightfully frightened by the infiltration of communism, and if we study Marx, we know the pattern. In my judgment the Members of the Congress ought to read Marx if they want to know the steps that we ought to take to stop Communist infiltration in this country just as we ought to have read Hitler's "Mein Kampf" to see what his blueprint was going to be.

Marx urged use of the labor unions to spread Communist propaganda. Of course I want to see the labor unions protected from it and I want to see them in a position where they can take action against it, but it seems to me our approach ought to be an approach on this whole question of subversive ideology, no matter what "ism" is attached to it.

Rather than talking in terms of a Communist affidavit, or in terms of an anti-Fascist affidavit, it seems to me we ought to be talking in terms—if we are going to have any pledge at all—of a pledge of loyalty to our form of government. We ought to try to work out a generally stated loyalty pledge to the constitutional form of government in this country on the part of all leaders of labor and all employers that seek to use the offices of government in the field of labor relations, be that office the National Labor Relations Board, the Mediation Service, the Department of Labor, or any other Government agency to which they turn for assistance in their relationships.

Now I do not know whether we can work out such a general provision, but I think it would be more in keeping with American ideals than to put in a law an affidavit requirement that is almost based upon the theory of presumption of guilt rather than innocence. It does not seem right to say to employers, "You have got to tell us you are not a Fascist before you can go before the National Labor Relations Board," and to say to labor leaders, "You have got to tell us you are not a Communist before we will give you any service through the National Labor Relations Board."

To me that approach is an admission of weakness on our part. It suggests we have fears as to the basic stability of our form of government. It seems ineffectual to require people to go through the formality of signing that kind of an affidavit, particularly when we keep in mind the fact that if a person is a Fascist or Communist, he is going to lie about it anyway until he thinks he is in a position—which is their goal—where he can take over. Then they will come out and blatantly confess what bad actors and destroyers of people's freedoms they are.

I yield to the Senator from Missouri.

Senator DONNELL. I would like to say a very few words, Mr. Chairman.

Senator WITHERS. I would like to interrupt. Will you yield to me?

Senator MORSE. I am sorry. I will yield to you. I apologize.

Senator DONNELL. I want to say a very few words in regard to the very interesting discussion made by Senator Morse of section 208 and section 502.

In the first place, as I understand his view, section 208, by the language which it embraces giving the power to the court to issue in-

junctions, to make such other orders as may be appropriate, gives a power to make an individual worker work. That is what I understood his view to be.

In the first place I want to say two things on that. Such a decision by the court is, as is pointed out in the next section, in the next subsection, the second subdivision, subdivision (c) "subject to review by the appropriate circuit court of appeals and by the Supreme Court."

I would like to say fundamentally that section 208 is not directed, as I see it, at all to the individual as an individual. It is directed to the injunction against strikes or lock-outs.

The term "strike" is what is used in section 208 (a). The term "strike" is specifically defined as the common law defines it back here in section 501 as involving "any strike or other concerted stoppage of work, any concerted slow-down or other concerted interruption of operations by employees," so that that section is not directed against John Smith and William Jones and Thomas Williams as individual miners or individual employees, but is directed there to enjoin the concerted action of all of them, and I do not think it is intended there to make the provisions of it applicable to them as individuals, but if they join in concert, that strike can be prevented, their action in concert.

Now as I see it the view that the Senator takes—and I have great respect for his opinion, as he well knows it, as I understand it, that section 208 would enable the court to issue an order that Senator Wayne Morse must go down to the bowels of the earth, to quote the rather graphic lines of the Senator a few days ago in the course of earlier testimony.

If it were to mean that, to my mind it would clearly violate the Constitution of the United States as being contrary to the prohibition against involuntary servitude, and in the second place the statute need not be so construed because of the well-established principle that a statute is not to be so construed to be unconstitutional if it is reasonably possible to construe it otherwise.

To my mind by the very use of the term "strike" the intention in section 208 is to authorize injunctions against concerted action rather than against the specific individual.

Now I think any individual himself not acting in concert, I mean to say any individual may himself withdraw from the work without violating that section or the injunction.

Furthermore, finally on this point the Senator made quite a point of the fact that in section 502 the term is "quitting," making the quitting of the employee an individual act. A man can quit his job, but loses all his rights, but I respectfully call the attention of the Senator to the fact that that is not the sole provision of section 502. Indeed, that is the second provision. Section 502 starts out—

Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent.

And then portion of it about quitting starts off like this, as a separate subject, but in the same sentence—

nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act.

The two terms are entirely different. They are contrasted. One is that the act shall not be construed to require an individual employee

to render labor or service. The other is another category, that nothing in the act shall be construed to make the quitting of his labor an illegal act.

Just one further word on the matter of the Communist affidavit, and I close. That is this: I can well appreciate the point that the Senator makes with respect to Communists being liars. It is our understanding of the Communists that may well be true, and I assume is true, but I think there is this to be said in favor of requiring an affidavit of officers of labor unions stating that they are not Communists, that even though the man who signs it is a liar, there may be a very substantial deterrent for fear of punishment by prosecution for violation of the oath, for perjury, even though the man is a liar and has no innate morality. He may well be deterred from committing perjury, because of fear.

Then, there is one sentence in the Joint Labor-Management Relations Committee Report:

The committee believes that the non-Communist affidavit provision had already demonstrated its effectiveness as an aid to unions and their members in a desire to drive the Communists from positions of power in labor organizations—

and again on page 3 of the report is the statement:

Elimination of Communist partisans and adherents from official posts and positions of responsibility in both national and local unions is one of the most pronounced and significant effects of the Labor-Management Relations Act of 1947.

I greatly appreciate your courtesy.

Senator MORSE. I have these two points. As to section 502, I think it is perfectly clear that the language means that the court cannot compel the individual to work against his consent if he quits his job. But that under section 208, if he participates in a strike the court has the power to follow the same policies that the courts have always followed in injunction cases and in strike cases and they have taken jurisdiction in those injunctions over the individual, and they have given them the choice either to desist from the strike or go to jail.

Senator DONNELL. The Goldsborough decision did not—

Senator MORSE. I am not talking about that decision.

The court did not apply it in the Goldsborough decision, because the injunction was limited to the officers of the union. Until we have a decision from a court, I say that under the Taft-Hartley law the courts have the same powers to grant injunctions that they had prior to the Norris-LaGuardia Act, and we know the sad record they made in the application of injunctions prior to the Norris-LaGuardia Act.

Senator DONNELL. The Senator will recall that I distinctly stated I am not contending the injunction can be issued solely against the officers of the union.

Senator MORSE. I yield to the Senator from Kentucky.

Senator WITHERS. In the first place, I want to say, Senator, I certainly appreciate your remarks and am most agreeably surprised at them.

Senator MORSE. You ought to know me better than to be so surprised.

Senator WITHERS. Not as much as I could have been, except some remarks that you made a few days ago, and we can welcome you over here on this side.

Senator MORSE. On this particular matter, I have been over on that side.

Senator PEPPER. Stay over here. Don't bounce back over there.

Senator WITHERS. I think that the Senator will recall that Governor Dewey, who was candidate for President last fall, made a speech in Pittsburgh in which he endorsed the Taft-Hartley Act, and it might be some satisfaction to you to know the bill you propose will be signed by a Democratic President who will join with you in it and join the rest of us in receiving you over here to that extent if——

Senator MORSE. Mr. Dewey did say at Pittsburgh that where the facts could be presented to show there were injustices under the Taft-Hartley law, it should be amended, and I said all through the campaign——

Senator WITHERS. We did not know the things he might think were unjust. The question I want to ask you is: How far can courts go when they enter such orders and processes as they may deem proper? Is there any limitation on that under the act?

Senator DONNELL. That is not the language.

Senator WITHERS. I want him to answer it.

Senator MORSE. I think I know what you mean. The cases are legion. On review they are subject to the decision of the appellate court as to whether the lower court exercised unreasonable discretion in carrying out powers supposedly given it under the statute.

Senator WITHERS. So they have some, about how far they will go. So there is some authority there.

Senator MORSE. No; I do not think that amounts to implied authority.

Senator WITHERS. They would read beyond the language of the act.

Senator MORSE. You might go back to the other decisions for that discussion of what the different processes are.

Senator WITHERS. They would read certain things into the act to justify the extent to which they might go.

Senator MORSE. No; I have never held to the point of view that the Supreme Court has ever usurped any power.

Senator WITHERS. I am talking about the court that entered the order. I know it will be reviewed by the Supreme Court.

Senator MORSE. We are all familiar with the power of judicial review as it was so ably set out in American jurisprudence by the line of decisions starting with those by Chief Justice Marshall.

Senator WITHERS. There is not anything to determine the extent to which the courts might go, is there?

Senator MORSE. Yes; I think there is the rule of reason.

Senator WITHERS. Then, you would read the rule of reason into the act?

Senator MORSE. It is there in the judicial process.

Senator WITHERS. It is implied.

What is the rule of reason in the act?

Senator MORSE. I think when the founding fathers set up the judicial branch of government they set up what Marshall found were clearly the powers of judicial review.

Senator WITHERS. They are implied.

Senator MORSE. No; I do not think they are implied.

Senator WITHERS. What express power could they follow?

Senator MORSE. The power of a court to judge.

Senator WITHERS. Is that implied?

Senator MORSE. It is granted in the Constitution.

Senator WITHERS. To judge what?

Senator MORSE. To judge whether or not any officer of Government has followed the course of action that violates, for example, the constitutional rights.

Senator WITHERS. There is no limit, then, as to how far the Supreme Court could go under that implied provision of the Constitution.

Senator MORSE. I think Marshall very clearly outlined the limits to which the Supreme Court can go.

Senator WITHERS. In all cases?

Senator MORSE. He discussed in his decision the so-called rule of reasonableness. If what you mean is that we have not, in the Constitution, set out what would correspond to the type of statutory limitations that Congress imposes upon executive and administrative officers, you are quite right, but it is to be found in the —

Senator WITHERS. Whose rule of reason are they going to apply, their rule of reason or the rule of reason of us? Whose rule of reason?

Senator MORSE. The judgment of the court.

Senator WITHERS. That is their rule of reason. They lay down the rule of reason. They denominate the rule of reason themselves.

Senator MORSE. We gave them that power when we set up a constitution that—

Senator WITHERS. Specifically?

Senator MORSE. That is what Marshall found.

Senator WITHERS. He found specifically what a rule of reason is.

Senator MORSE. No; he found that the Court had the power to apply the rule of reason.

Senator WITHERS. And the rule of reason is a general thing, is it not—not specific?

Senator MORSE. Oh, sure.

Senator WITHERS. Thank you.

Senator MORSE. We are in agreement on that.

Senator WITHERS. I did not know that, because you said there were not any implied powers under the Constitution, the other day.

Senator MORSE. In the executive.

Senator WITHERS. I do not know the difference between a rule of reason that is general and an implied one, Senator; do you?

Senator MORSE. There is a chasm-wide difference between the powers of the Court under the Constitution and the powers of the President under the Constitution.

Senator WITHERS. That is about as clear as mud to me.

Senator MORSE. I am sorry, but I can see it clearer than that.

Senator PEPPER. Just before you adjourned, the Senator admonished and advised the Senator from Kentucky that he has been pursuing the position he has taken here this morning for a long time.

Unless there is some error in my recollection and the advice I have had from one of the assistants here and from the version of S. 1126 which was voted favorably upon by a vote of 11 to 2 in this committee, the Senator from Oregon was one of the 11 that voted for this section 208 which contains the language it now contains; and the Senator from Montana and I voted "no" on that.

Senator MORSE. The Senator from Florida is quite right.

Senator PEPPER. Let the record show that.

Senator MORSE. The Senator from Florida, if he will recollect, because I know he sat both in committee and on the floor of the Senate, also heard the Senator from Oregon protest that type of power. I also pointed out that it was one of those compromises that I was going to go along with at that time, but that I did not like the compromise at all.

Senator PEPPER. I hope he will vote with me, and with the Senator from Montana at this time.

Senator WITHERS. I want to say to the Senator from Oregon, I think you have made a very, very fine statement of your views, clearly and easily understood, and I endorse practically everything you have said.

Mr. GREEN. Senator, may I ask Senator Donnell one question?

Senator Donnell, you have read from the report——

Senator DONNELL. The Joint Labor-Management Relations Report.

Mr. GREEN. What is that?

Senator DONNELL. That is the Labor-Management Relations Report of the Joint Committee on Labor-Management Relations which was rendered to the Senate December 31, 1948. It is Report No. 986, part 3, Eightieth Congress, second session.

Mr. GREEN. Is that the committee of which Senator Ball was a member?

Senator DONNELL. That is correct; he was a member of it, the chairman.

Mr. GREEN. So that is practically part of his report?

Senator DONNELL. He was the chairman of the committee, certainly.

The CHAIRMAN. We stand in recess until 2:30.

Mr. GREEN. Are you through with me now?

The CHAIRMAN. Thank you, President Green, for coming. You get time and a half for overtime.

(Whereupon, at 12:50 p. m., a recess was taken until 2:30 p. m. of the same day.)

AFTERNOON SESSION

The CHAIRMAN. Mr. Geary, please. Mr. Geary, for the record, will you state your name and your address and whatever else you want to have appear in connection with your name in the record?

STATEMENT OF PAUL M. GEARY, EXECUTIVE VICE PRESIDENT, NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

Mr. GEARY. My name is Paul M. Geary, G-e-a-r-y, and I am executive vice president of the National Electrical Contractors Association.

I reside in the District of Columbia at 2407 Fifteenth Street, NW. Our office is located in the Ring Building at Eighteenth and M Streets.

Mr. CHAIRMAN. You may proceed, Mr. Geary. You know the sort of rule we are trying to work under.

Mr. GEARY. Only vaguely, Mr. Chairman. My statement is fairly brief, and if it is permissible, I will just read it.

The CHAIRMAN. I think that it is within the time limit, Mr. Geary.

Mr. GEARY. The National Electrical Contractors Association is a nonprofit national trade association representing the electrical con-

tractors of the United States. It is today, and has been since 1901 when the association was founded, the recognized spokesman for the industry at the national level.

There are today more than 2,700 members of NECA and of this number approximately 2,500 employ labor under agreements with local unions of the International Brotherhood of Electrical Workers. There are approximately 200 members who operate on what ordinarily is known as an open-shop basis. The members of NECA, together with other electrical contractors, employ approximately 100,000 members of the IBEW who are especially trained and skilled in electrical construction work. Most of our membership also are members of local associations chartered as chapters of the national. There are 73 such chapters and each of them carry on collective bargaining with one or more local unions of the IBEW.

The members of NECA, as is the case of practically all electrical contractors, are small-business men. The average electrical contractor employs an average of about 11 journeymen. Some 3,000, or a third of the total number of contractors, employ an average of five or less. The large majority of electrical contractors do between \$50,000 and \$200,000 of gross business a year, some 50 percent of which is pay roll. A few do a million dollars or more a year, but even the largest operator falls into the generally accepted classification of small business. Taken together, electrical contractors last year did approximately \$1,000,000,000 of business, all of which was closely related to the public welfare, affecting, as it does, the increasingly important application of electrical energy to the factory, shop, home, and laboratory.

As representative of NECA in the capacity of executive vice president, my duties require familiarity with labor relations, for labor is the predominant element of cost in the business of electrical contracting.

During the recent war emergency I served as an industry member of the wage adjustment board for the construction industry which was created by and functioned under the powers of the National War Labor Board.

I am presently an industry member of the board of trustees which administers an employer-employee plan for the orderly adjustment of trade jurisdictional disputes in the construction industry.

My experience in matters of labor relations has been confined to the electrical contracting industry, including to some extent the construction industry as a whole. The content of this statement is therefore confined accordingly.

I am one of those who believe that good labor relations cannot be legislated. They must be planted in soil fertile with honest desire to get along the one with the other, and tended with understanding and constancy. We in the electrical contracting industry have been hard at work at this job for a generation. For almost 30 years, our organization, the National Electrical Contractors Association, has cooperated with the International Brotherhood of Electrical Workers.

In the economic readjustments that followed World War I—very similar to those of today—farsighted men in the electrical contracting industry—both employer and employee—looked upon the chaotic conditions of the time. These practical men forged an instrumentality out of their hard experience in industry—experience that had

taught them that strikes were not the way to settle labor disputes. This instrumentality was the Council of Industrial Relations for the Electrical Contracting Industry. It was and is today a system of voluntary arbitration functioning, under the mandate of collective bargaining agreements, as a court of justice for employer and employee alike.

Where for the past 29 years the council procedure has been followed, there has not been a strike or work disruption and its existence has made for a condition in the industry that has prevented any major or industrylike work disruption.

In other words, we have lived in peace, and developed. The high state of modern electrical installation development attests to the public benefit of this evolution.

The foundation of this progress is responsibility on the part of both parties—the employer and the employee. You cannot expect to have a responsible union unless you give it the means of achieving responsibility; that is, the union must have a measure of security.

The closed shop type of contract which has been in effect between labor and management in our industry assures the union of security and gives it an opportunity to concentrate on helping to improve production—the only road to greater benefits for labor, management, and the public alike.

As employers, we feel that legislation outlawing the closed shop impairs the employer's right of contract. If an employer prefers to deal only with a group of men who have sold him their worth and responsibility, should he not be permitted to do so? To ban the closed shop is merely to restrict further the employer's right to bargain and to contract with persons of his own choice.

We are inclined to question the practical value of legislation which seeks to prescribe in detail how labor and management shall deal with each other. If there had never been a National Labor Relations Act of 1935 there would not have been a Labor-Management Relations Act of 1947, and there would not now be a proposed National Labor Relations Act of 1949.

If labor relations legislation is to be continued we believe that equal treatment should be accorded to both parties. Both should be equally responsible for their acts, and both should have the right of free speech.

The construction industry, in general, and its electrical contracting branch, in particular, is one of intermittent employment. The employer has no permanently located plant—each job site is a plant. At times he has many job sites variously located in the same State or in several different States. At other times he may have none.

He has no permanent labor force—today he may have 10 men, next month 500, and the next month, none. He must, therefore, have access to some dependable source of labor supply from which he can draw on short notice as many skilled mechanics as the job may require, with the understanding that altogether or one at a time they will be laid off without notice when their particular task is completed.

The building trades unions have traditionally, under closed shop agreements, performed this employment service in each locality. If construction contractors had to carry their labor force with them or

individually recruit it in each locality, consider the cost as well as the delay and inconvenience.

Intermittent employment and other undesirable features make it difficult to keep good men in the construction industry. The unions in the industry have gone a long way toward stabilizing work opportunities and having the right number of men in the right place at the right time. They made a noteworthy contribution to the war effort in this capacity. I doubt if they could repeat it without the closed shop.

The unions in the construction industry never utilized the provisions of the National Labor Relations Act of 1935 in their dealing with employers; presumably because, aside from the question of what is interstate and what is intrastate, there was no practical method of utilizing those provisions in an industry of the nature hereinbefore described.

No practical method of applying certain provisions of the Labor Management Relations Act of 1947 to the construction industry has yet been discovered. I do not believe that the union-security provisions of that act can be utilized in the construction industry.

The act prohibits the closed shop and gives unions the right to bargain for a certain type of union shop after a certain election procedure has been carried out under the supervision of the NLRB.

In order to accomplish this throughout the United States in the manner provided in the law, there would be required to be held so many elections as to make it impossible. Even if the NLRB or its general counsel had authority to establish for the construction industry rules and regulations not provided for in the act, and both employers and employees cooperated wholeheartedly, the task would still be enormous, and could not be accomplished within any reasonable length of time the affected parties would have the right to expect.

We fear that application of the existing legislation to our industry will interfere with and possibly destroy our apprenticeship and training system which now has in the course of training approximately 20,000 young men in nearly 400 localities.

Under our apprenticeship system, apprentices are required to have 4 years of field experience and 800 hours of classroom training at wages far below the journeymen wage scales.

It is not unreasonable to expect that workers desirous of entering a skilled trade will forego the arduous process of apprenticeship if they are led to believe they may make the entrance immediately as self-styled mechanics, prompted by immature experience gained by casual employment in some specialized branch of the trade that by no means would be equal to supervised apprenticeship.

The only satisfactory way we have ever found to produce the skilled mechanics which our industry requires is through our apprenticeship and training program jointly operated by labor and management, and provided for in each local collective bargaining agreement.

During the past 5 years, because of war and postwar contingencies, our electrical contractors have been in desperate need of men. Accordingly, in one large city, our members hired; wherever they could be found, some 6,700 men.

Mr. Chairman, there is a typographical error in my prepared statement. The figure should be 7,600 men instead of 6,700.

The CHAIRMAN. 7,600.

Mr. GEARY. Accordingly, in one large city, our members hired wherever they could be found some 7,600 men who were not union members.

The contractors had an agreement with the local union of the International Brotherhood of Electrical Workers that regular membership in the union would be granted to any of these men who the employers, after trial, would recommend as journeymen electrical workers.

You will be interested to know that, out of the 7,600 men, only 1,200 were found by the employers to be sufficiently capable to be retained and to be referred to the union for regular membership. The cost of trying out the 6,400 men who proved to be incapable was an appreciable burden on the employers and on the community. Estimated conservatively, the cost to the employers and their customers was in excess of \$200 per man, or well over a million dollars for the 6,400 men who could not qualify.

It would seem that if contractors who require skilled craftsmen of proven ability are hindered in resorting to and using a known source of such craftsmen, the result will be an appreciable and unnecessary increase in costs to the trade and the building public.

Contractors cannot estimate work without knowing the caliber of men they have to hire. In the face of uncertainty as to this caliber, the contractor will have to allow a generous addition to normal labor costs.

We should also like to note that trying out men of unknown skill and competency at the same wage scales as journeymen weakens the efficiency and effort of proven employees.

It is, therefore, our opinion that, if we are to have labor-relations legislation, the proposed National Labor Relations Act of 1949, insofar as our industry is concerned, is preferable to a continuation of the present legislation because it permits closed-shop contracts while continuing to outlaw jurisdictional strikes and unjustifiable secondary boycotts.

The CHAIRMAN. Mr. Geary, at the bottom of page 6 and the top of page 7, you have a sentence there which I think describes a labor technique which I believe I will ask you to explain a little better so that we will have that in the record:

You will be interested to know that, out of the 7,600 men, only 1,200 were found by the employers to be sufficiently capable to be retained and to be referred to the union for regular membership.

Now, that sentence seems to imply that the employers become the judges of what men are able or worthy of union-labor membership; is that true?

Mr. GEARY. To some extent, and in this particular instance which I have included in this statement, a separate and sort of extraordinary agreement was made which made this possible.

The situation was as follows: The contractors in this particular locality were badly in need of men. The union could not furnish the men, of course; the contractors were complaining bitterly to "get us

the men we need. The union undertakes to perform that employment-agency function. Get us the skilled men we need."

The union had to say, "We cannot do it. We are using our best efforts and we are unable to do it. You see what you can do. Hire anybody you want. In spite of our closed-shop agreement, hire anybody you can find, and after you have tried them out, and if you are satisfied that they are capable mechanics and you recommend them to us, we will accept them into membership."

The CHAIRMAN. Well, is that a common practice or was that a practice that grew up in an emergency?

Mr. GEARY. I would say that that grew up in an emergency for it to be done on such a scale as that, 7,600 men. On a small scale, it is common practice.

The CHAIRMAN. On a small scale, it is common practice?

Mr. GEARY. Yes.

The CHAIRMAN. So that your apprentices are judge of their worthiness to belong to the union by the employers and not by the union itself?

Mr. GEARY. By a joint action. In most localities we have, by virtue of the local collective-bargaining agreement, established a joint committee on apprenticeship and training, which functions under our national committee, which, in turn, functions under the Bureau of Apprenticeship, which is sponsored by the Department of Labor.

We set standards, and these standards, and the method of procedure provide for the establishment in every locality of a joint committee with equal representation. This joint committee has charge of the training of apprentices, and anybody who has passed through that joint committee, as having completed his training, then is taken into the union as a journeyman. Anybody, any new man, any apprentice who wants to start, applies to this committee rather than to the union.

The CHAIRMAN. Well, to put it in common parlance, so that we will not confuse the power of the employer with the union itself, in reality the employer recommends a person as being worthy for union membership.

Mr. GEARY. That is what it amounts to.

The CHAIRMAN. Is that about the way it is?

Mr. GEARY. That is what it amounts to.

The CHAIRMAN. And the union lives up to that recommendation, generally speaking; is that so?

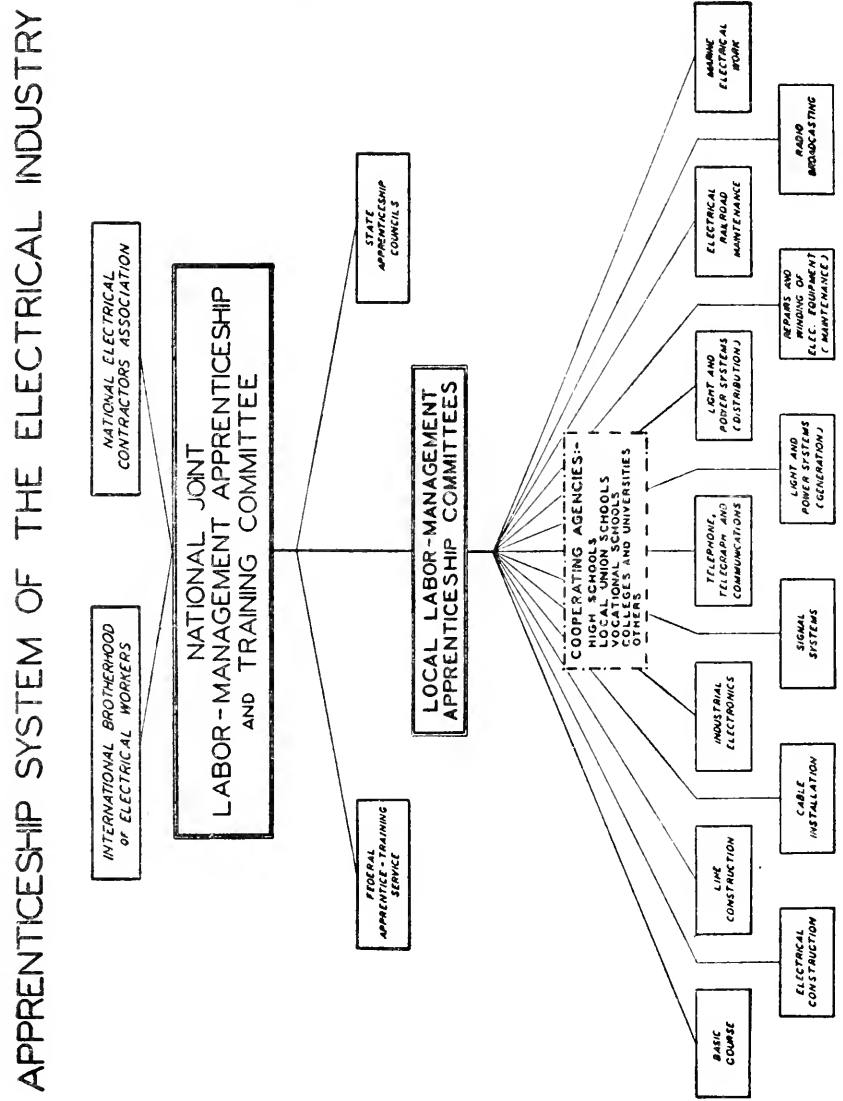
Mr. GEARY. That is right. You might put into the record, if you like, a copy of our apprenticeship and training standards and voluntary arbitration.

The CHAIRMAN. We will be glad to have it.

(The documents referred to are as follows:)

NATIONAL APPRENTICESHIP AND TRAINING STANDARDS FOR THE ELECTRICAL INDUSTRY

(War Manpower Commission, Bureau of Training, Apprentice-Training Service, Washington, D. C., 1945)



FOREWORD

In August 1941 the National Joint Apprenticeship Committee for the electrical construction industry issued National Apprenticeship Standards for the Electrical Construction Industry. This was a carefully prepared summary of many years' experience by both employers and union leaders with apprenticeship training programs and standards in the electrical construction industry.

As an indication of the swift and fundamental changes that are now taking place in the electrical industry, it appeared essential that the National Joint Apprenticeship Committee for the electrical construction industry revise these

standards, broadening their scope and intensifying their appeal. The new standards do not represent so much basic changes in content and substance as new applications to every branch of the electrical industry.

The standards of August 1941 contain the following foreword:

"In harmony with the general policy of cooperation which prevails in the electrical construction industry, these national apprenticeship standards are the product of the action of a national joint committee drawn from union and employer representatives. Consultation with Government representatives has been frequent. These standards are the outgrowth of long years of experience in the field. They utilize also the best of the standards accumulated in local districts, where more than 50 joint committees have been at work. Those standards are projected against a background of the electrical industry and the electrical trade, and they seek to correlate the customs and traditions of the industry and the trade which condition apprenticeship standards.

"These national apprenticeship standards are guides for the use of local unions and local contractor associations. It is expected that they will not only serve to guide, but will also stimulate formation of local joint committees in order that a Nation-wide apprenticeship system will rapidly materialize. The aim, of course, is to produce thousands of electrical apprentices destined to become uniformly competent journeymen craftsmen. These standards should likewise create pride in the electrical industry and the electrical craft."

In planning and developing the national training program in the electrical industry, the committee gratefully acknowledges the valuable assistance of William F. Patterson, director, apprentice-training service, and assistant directors of this agency, Ansel R. Cleary and Maurice M. Hanson, who is also national consultant for the construction industry.

NATIONAL JOINT APPRENTICESHIP AND TRAINING COMMITTEE FOR THE ELECTRICAL INDUSTRY

Representing the National Electrical Contractors' Association:

E. H. Herzberg (chairman)
Robert W. McChesney
E. C. Carlson
J. W. Collins
W. F. McCarter
P. M. Geary

Representing the International Brotherhood of Electrical Workers:

Ed. J. Brown (vice chairman)
M. H. Hedges (secretary)
G. M. Bugniazet
H. W. Maher
C. W. Spain
William D. Walker

I. BASIC SKILL

Change and stability.—Change is a manifestation of all industries. Changes are more fundamental and more swift in the electrical industry. Change in the electrical industry is dictated by the rapidly expanding character of electrical science. Indeed some authorities take the position that new devices in technology originate usually in the electrical industry and then are introduced into other industries, bringing about the same fundamental changes in methods and direction.

The global war certainly furnished a laboratory for the rapid introduction of new technological devices. Trends that had been present in the electrical industry for 25 years suddenly plowed deep into actuality. Before the global war the electronic branch of the electrical industry was doing a business of about \$1,000,000,000 a year. During the 4 years of the war, the electronic industry quadrupled its output of electronic machines and is now doing business of about \$4,000,000,000 a year. The settled expectations of industrial leaders in the electronic industry are that the electronic branch of the industry will probably absorb about 25 percent of the capital, the production and distribution of the entire electrical industry. The electrical construction branch of the industry, where apprenticeship training had its origination and its strongest hold and where recruiting for the entire electrical industry occurred, felt actively the same sweeping changes that other sections of the electrical industry felt. Moreover, it became apparent that the traditional boundary lines between segments of the electrical industry were not and could not be preserved in their traditional sense; the electrical industry tended to unification.

It became apparent, therefore, to the National Joint Apprenticeship and Training Committee that the standards issued in August 1941 should be reexamined and extended to meet the changing character of the electrical industry.

While these changes were apparent, it was also clear that skill had not lessened but was enhanced during the period of the global war. Skill, whether it be the

skill of the mechanic or of the technician or engineer, is the stabilizing factor in the industry. National standards merely emphasize this basic fact. It is clear also that skill is not vested interest of any one segment of the electrical industry nor can it be anchored to any geographical locality. Skill is basic. Standards that seek to evaluate this skill must be national standards. Skill first rests upon the technical knowledge of electrical science. This knowledge until it is applied by the mechanic, the technician, and the engineer is so much deadwood. Knowledge applied makes skill.

The art of handling electricity is regarded as being all one piece; that is fundamentals are uniform and are basic to all branches of the electrical industry. In view of the fact that the electrical industry is organized on what has come to be called a horizontal basis; in view of the fact that the electrical industry is national and tends to standardize its products, however varied, on any basis other than geographical, standards of apprenticeship may be and should be uniform not only in all branches but in every geographical location.

It appears that much progress can be made if and when local joint apprenticeship committees work in close conjunction with the National Joint Apprenticeship and Training Committee.

All local or area joint apprenticeship and training committees will be contacted from time to time by the national joint committee for facts and figures on the status of apprenticeship and training in their area.

It is also apparent that apprentices and journeymen ought to be prepared to supplement their regular training with night school courses at their own expense, time, and money. This is the only way in which the craftsman can master the vast amount of learning necessary to make him a first-class mechanic.

II. CHARACTER OF THE ELECTRICAL TRADE

Simplicity and complexity.—Skill is basic. Skill rests upon a knowledge of electrical science and the mastery of the expanding frontiers of electrical science. The apprentice, therefore, must receive first of all basic training in the theory and fundamentals of electricity and craftsmanship and may pass to specialized training in any one of the important branches of electrical science and the electrical trade. For the purpose of these standards the following segments of the industry are recognized:

Electrical construction	Light and power systems (distribution)
Line construction	Repairs and winding of electrical equipment (electrical maintenance)
Cable installation	Electrical railroad maintenance
Industrial electronics	Radio broadcasting
Signal systems	Marine electrical work
Telephone, telegraph, and communications	Rigging ¹
Light and power systems (generation)	Welding ¹

Basic training will have principally to do with the theories and fundamentals of electrical science; fundamentals of mathematics; mastery of electrical circuits and diagrams; electrical and mechanical drawings; laboratory testing.

III. ELEMENTS IN THE MASTERY OF SKILL

Road to skill.—The electrical trade, unlikesome trades, is mechanical, technical, and professional. It must draw men who have a natural aptitude in using tools and it must at the same time attract men who are gifted enough to master the intricacies of electrical science. Training must be given in the intelligent selecting and handling of measuring rules and scales; saws, drills, and taps for various purposes and metals; ropes and blocks; and a practical knowledge of the application of levers, gears, and pulleys, along with the ability to rig efficiently for hoisting and erecting equipment and materials. Moreover, mathematics, as in most crafts and professions, is basic to full mastery. Too frequently, the electrical trade is regarded merely as a mechanical art, whereas it is a combination of the mechanical, technical, and professional, for it shades in at the top to the work of the electrical engineer.

The men are classified as electricians and supervising electricians. The supervising electrician is a registered electrician, and he is qualified to interpret electrical rules contained in the national and local electrical codes governing the safe and proper installation of electrical equipment. The scope of his work requires him to have some knowledge of electrical engineering. Indeed, organization of the electrical industry is based upon the character of the electrical

¹ Segments of the craft performed in every branch of the trade.

trade; that is, with electrical mechanics at the base, mechanics professional or supervising electricians within the journeymen ranks, and with electrical engineers or technicians as contractors.

Because the proper handling of electricity is regarded by city councils, legislatures, and courts as touched with public significance, there is a clear relationship between the electrical trade, the art of installation, and the public welfare. The continuous operation of electrical equipment, the prevention of fires, and the protection of human life are regarded as functions of electrical workers whether they be electrical mechanics, mechanics professional, supervising electricians, or contractors. Electrical science is constantly changing and expanding. This, in turn, conditions the electrical arts. The electrical industry has moved from nothing to the third largest industry in one generation. This means that sound basic training must be given early to the apprentices; that this must be supplemented by a certain amount of theoretical instruction in electricity; and that some provision must be made for training and retraining in an expanding science. Postgraduate courses are desirable that journeymen may keep pace with this changing science. As viewed by the electrical industry, general training should and does precede specialization on the part of the apprentices or the journeymen. The standard here involved is not unlike that obtaining in the academic world where a liberal-arts education must precede specialization in the professions. Moreover, it is generally conceded that training of mechanics must be done upon the job and all arts must be learned by doing. Only a minor part of the time of learning the electrical trade is spent in technical classes.

The electrical trade presents evidence of a high degree of responsibility on the part of trained craftsmen. Some of these are:

(1) Every job presents variations and individual problems which demand decision by the journeyman for their practical and successful solution. Generally an electrical craftsman works there and must take responsibility for the particular segment of the job.

(2) Journeymen on many jobs have opportunity of dealing with customers. The personal conduct of the craftsman conditions future advancement of the trade and industry.

(3) A workmanly job is inclusive of the aesthetic. Slovenly work with no regard for the neat and slightly is generally poor work, from the craft point of view. Shapely work is generally sound and safe work.

(4) The mechanic has responsibility for the interconnection and construction of a complex electrical system. Adequate performance of his task is necessary to make this system work adequately. Generally speaking, in the electrical industry, mechanics, professional and supervising electricians operate under the supervision of city and State inspectors, which demands and assures a high standard of workmanship.

(5) All craftsmen must have a working knowledge of municipal, State, and National electrical codes and the codes of practice within the industry.

IV. MACHINERY OF TRAINING

Machinery of education.—The machinery of apprenticeship already in widespread use is conditioned by the scope and character of the electrical industry and the nature of the electrical trade.

Because of the trade's approach to the professional level, experience has proven that a combination of practical and theoretical instruction must be provided apprentices. Experience has also shown that a planned system of apprenticeship which will cover every apprentice employed in the electrical trade in a community must be set up. This system is developed by a joint committee of equal representation from the electrical contractors and from the electrical workers. It contains the standards governing the employment and training of electrical apprentices and the method through which the system is to be administered. The apprenticeship system is then approved by the interested organizations and is placed in operation.

For many years a number of highly successful apprenticeship systems built on those lines have been in operation. All, whether set down in writing or not, follow a consistent pattern.

In recent years great stimulus has been given to the setting up of apprenticeship systems in all trades by the Apprentice-Training Service,² War Man-

² Originally established in the U. S. Department of Labor; transferred April 18, 1942, by Executive Order No. 9193 to the Federal Security Agency; and on September 17, 1942, transferred by Executive Order No. 9247 to the War Manpower Commission.

power Commission, and its policy-making Federal Committee on Apprenticeship. The national organizations of electrical contractors and electrical workers have encouraged local affiliated organizations to cooperate with the Federal Committee, and from the experience of such local groups these national standards have been built.

V. STANDARDS

Definition of electrical apprentice.—The term apprentice as used shall mean a person at least 18 years of age who preferably has a high-school education or its equivalent, who is covered by a written agreement with the local joint apprenticeship committee recognized by the Federal Committee on Apprenticeship, and by an approved supplementary agreement with an employer, providing for not less than 8,000 hours of reasonably continuous employment for such person, and for his participation in an approved schedule of work experience through employment, supplemented by at least 144 hours per year of related classroom instruction.

Terms of apprenticeship instruction.—It shall be regarded that 8,000 hours of work and class-room experience will give the equivalent of 5 years' training, and it shall be recommended that it take 5 years of training to produce a well-rounded journeyman.

Probationary period.—All apprentices employed in accordance with these standards shall be given a probationary period not exceeding 6 months. During this probationary period annulment of the apprentice agreement may be made by the local joint apprenticeship committee on request of either party without the formality of a hearing.

After the probationary period the agreement may be cancelled by the joint apprenticeship committee for good cause. The Committee shall notify the registration agency of all terminations of agreements and the reason therefor.

Qualifications for apprenticeship applicants.—Candidates for electrical apprenticeship not hitherto connected with the trade, must be between the ages of 18 and 24 years. The following information shall be submitted to the local joint apprenticeship committee by each apprentice applicant:

- (a) Birth certificate or military discharge.
- (b) Transcript of school courses and grades.
- (c) Record of physical examination.

(d) Exception to the above age limit should be made in cases of discharged veterans. In such cases the age of the veteran should be considered as of the time he entered military service.

"Postgraduate" training.—It is strongly recommended that provision be made under the guidance of the local joint apprenticeship committee for keeping abreast of the expanding electrical science. The educational process for the apprentice should be viewed as continuous not only through his formal training but after he becomes an accepted journeyman. In some cases this is done through post-graduate societies which give short courses in special subjects as they appear in the field.

Apprentice wages.—Apprentices shall be employed on a stipulated wage basis. The first year's wage should be fixed by contract but not less than 25 percent of the journeyman's wage. Toward the second half of the second year the apprentice should move into the category of the actual wage earner. Wages in the third and the fourth years should be high, and the wage for the whole period should average at least 50 percent of the journeyman's wage.

The ratio of apprentices to journeymen.—The ratio of apprentices to journeymen varies, but should be determined by collective bargaining.

Trained instructors.—All related classes for apprentices should be conducted by trained instructors, cognizant of good educational technique as well as thoroughly grounded in mechanics and electrical science.

Periodical examination.—Examination of apprentices shall be given before each period of advancement and at such time as determined by the local joint apprenticeship committee.

*Apprenticeship agreement.*³—The apprentice shall be required to sign an agreement or contract with the local joint apprenticeship committee. If the

³ Apprenticeship agreement forms may be obtained from the National Joint Apprenticeship and Training Committee for the Electrical Industry or from the National Electrical Contractors Association or International Brotherhood of Electrical Workers.

apprentice is a minor the legal guardian shall also sign the agreement. A supplementary contract shall be signed as between the employer to whom the apprentice is assigned and the local joint apprenticeship committee.

Identification of apprentices.—Each apprentice, after signing his contract, shall be furnished with an identification card signed by the secretary of the local joint apprenticeship committee. The card shall show the apprentice's name, address, date of birth, the date of the beginning of the apprenticeship, the name of the employer to whom the apprentice is assigned, the record of the apprentice's school attendance, and the signature of the apprentice.

Composition of joint electrical apprenticeship committees.—The local joint apprenticeship committee shall be composed equally of three or more members representing employers and three or more members representing employees. Members of the apprenticeship committee shall be selected by the groups they represent. The term of office shall be 3 years, the term of one employer and one journeyman to expire each year with vacancies to be filled in the same manner as the original appointment was made. The committee shall select from its members a chairman and a secretary who retain voting privileges. The committee shall meet once a month or on call of the chairman.

"Consultants such as those from the Apprentice-Training Service, the vocational schools and engineers from corporations may be requested to sit with the joint committees, but only in an advisory capacity."

Duties of the local joint apprenticeship committee.—(a) To determine the need for apprentices in the locality, and shop facilities available for the necessary experience on the job.

(b) To establish minimum standards of education and experience required of apprentices.

(c) To determine the adequacy of an employer to give training.

(d) To see that apprentices are under agreement. Where it is impossible for one employer to provide the diversity of experience necessary to give the apprentice all-round instruction in the branches of the trade, or where the employer's business is of such character as not to provide continuous employment over the entire period of apprenticeship, the committee shall transfer the apprentice to another employer, and the supplementary employer's agreement shall be likewise transferred. This agreement does not obligate the committee actually to employ the apprentice, but it stipulates that it shall use its best endeavors to keep the apprentice continuously employed and adequately instructed.

(e) To determine the quality and quantity of experience on the job which the apprentice must have, and to be responsible for his obtaining it.

(f) To hear and adjust all complaints of violation of apprentice agreements.

(g) To arrange tests for determining the apprentice's progress in manipulative skill and technical knowledge.

(h) To maintain a record of each apprentice, showing his education, experience, and progress in learning the trade.

(i) To recommend when the apprentice is sufficiently prepared to be eligible for taking the journeyman electrician's examination.

(j) To make an annual report covering the work of the committee to the respective employer and employee groups.

(k) To be responsible in general for the successful operation of the apprenticeship standards of the electrical trade in the given community: by performing the duties listed above; by cooperating with public and private agencies which can be of assistance; by obtaining publicity, in order to develop the support and interest of the public in the apprenticeship standards; by keeping in constant touch with all parties concerned—apprentices, employers, and journeymen.

(l) To request the appropriate State apprenticeship agency, recognized by the Federal Committee on Apprenticeship, to register each apprenticeship agreement, which automatically registers such agreement with the Federal Apprentice-Training Service. If no such State agency exists the request should be made of the Federal Committee on Apprenticeship, Apprentice-Training Service, WMC, Washington 25, D. C., bearing in mind that the Federal Committee on Apprenticeship is a policy-making body for voluntary apprenticeship.

(m) To notify the appropriate registration agency of all terminations or cancellations of apprenticeship agreements.

(n) To recommend that each apprentice be issued a certificate of completion after the apprentice has completed the examination by the local joint apprenticeship committee.

(o) All joint apprenticeship committees shall send their standards to the National Joint Apprenticeship and Training Committee for review before final approval by the contractors and the electrical workers in order to assure that the local standards are in conformity with the national standards and to obtain the benefit of the apprenticeship experience in our industry throughout the country.

All joint apprenticeship committees shall send a copy of their standards to the national joint apprenticeship committee after final approval by the contractors and the electrical workers.

All joint apprenticeship and training committees should send periodical reports to the national joint committee on the number of apprenticeship agreements that are registered, completed, and cancelled.

Rotation of employment.—It shall be the duty and responsibility of the local joint committee to provide, insofar as possible, continuous employment to all apprentices. This may necessitate the transfer of apprentices from one employer to another.

Hours of work for apprentices.—Hours of work shall be governed by agreement and should conform to schedule set up for journeymen. Under stipulated conditions, apprentices may be permitted to work overtime.

Adjusting differences.—In case of dissatisfaction between the employer and the apprentice, either party has the right and privilege of appealing to the local joint apprenticeship committee for such action and adjustment of such matters as come within these standards.

Compliance with apprenticeship standards.—Every apprentice shall be given the opportunity to read the standards under which he is employed. The local standards shall be made a part of the apprenticeship agreement.

Panels of candidates for apprenticeship.—It is strongly recommended that panels of apprentices or candidates for apprenticeship be set up by the local joint apprenticeship committee and that the local joint apprenticeship committee shall have the right of selecting of apprentices from these panels. All agreements signed by electrical contractors and electrical employees shall provide for local apprenticeship training in terms of these national apprenticeship and training standards for the electrical industry.

It is recommended that local joint apprenticeship committees take into account work applicable to the electrical trade which veteran applicants have performed while in the armed forces and give appropriate credit for such work on the term of apprenticeship.

VI. BASIC RELATED INSTRUCTION

The following material is presented as a recommended outline of basic training in the theory of electricity for the union apprentice. It is intended as minimum or basic rather than maximum in scope.

Apprentice training should always be considered the training of an individual, planned to meet his needs and develop his potentialities toward the desired objective of a skilled mechanic.

THEORY

To develop as electrical background by which an apprentice will understand the "why" as well as the "how" of things pertaining to his trade; to make possible, through a basic knowledge of fundamentals, the solution of new problems as they arise in the future; and to enable him to profit by reading or studying throughout his electrical career.

Any modern one-volume general textbook outlines the basic information needed by the apprentice.

The apprentice student must at least learn enough theory to accomplish intelligently the work of his other courses and in so doing should acquire an electrical vocabulary, a knowledge of the relationship between the various units of measurement, the solution of given formulae, the methods of creating current electricity, relative conductors and insulators, comparative effects and uses of A. C. and D. C., magnetism, electro-magnetism, electro-magnetic induction, internal construction of dynamos, sources of information which need not be memorized, etc.

Any necessary review or teaching of mathematics to be given as needed.

ELEMENTARY THEORY OF ELECTRICITY

Direct current

1. Units, Ohm's law, and resistance measurements.
2. Magnetism and electro-magnets.
3. Electro power relations.
4. Electric power and work.
5. Electric power and heat.
6. Wire gage; resistance of wire as related to size, length, and kind of metal; effects of heat on resistance of conductors and insulations.
7. Review question.⁴
8. Electric generator.
9. Shunt generator and characteristics.
10. Compound generator and characteristics.
11. Review question.⁴
12. Electric motors.
13. Shunt motor and characteristics.
14. Series motor and characteristics.
15. Compound motor and characteristics.
16. Effects of armature reaction and interpoles.
17. Review question.⁴
18. Manual starters and speed control for direct current motors.
 - (a) Starting boxes
 - (b) Drum controller.
 - (c) Reversing controllers.
19. Dynamic and regenerative braking.
20. Common electrical troubles and remedies in direct current generators.
21. Common electrical troubles and remedies in direct current motors.
22. Common mechanical troubles in direct current machines.
23. Review questions.⁴
24. Armature windings of direct current machines lap windings.
25. Armature windings of direct-current machines wave windings.
26. Testing direct-current motors:
 - A. Insulation resistance.
 - B. Armature windings.
 - C. Field windings.
 - D. Grounds.
 - E. Torque and horsepower.
 - F. Load tests.
27. Adapting direct-current machines to changed conditions.
28. Review questions.⁴
29. Standard ratings and types of direct-current machines.
30. Construction and operation of electric measuring instruments; shunts and multipliers.
31. Review questions.⁴

Alternating current

32. Single-phase alternator: Effective voltage.
33. Three-phase alternators.
34. Voltage and current relations in three-phase circuits.
35. Impedance and resistance.
36. Inductive reactance.
37. Capacity reactance.
38. Review questions.⁴
39. Impedance circuit with resistance inductive reactance and capacity reactance.
40. Phase relation between voltage and current in a circuit having only resistance. Power in single-phase circuit. Power factor.
41. Phase relation between voltage and current in a circuit containing only capacity reactance. Power factor.
42. Phase relation between voltage and current in a circuit containing only inductive reactance. Power factor.
43. Phase relation between voltage and current in a circuit containing resistance and induction reactance. Power factor.

⁴ Requiring outside reading to answer.

44. Phase relation between voltage and current in a circuit containing resistance, inductive, and capacity reactance. Power factor.
45. Review questions.⁴
46. Electric power in a single-phase, in a three-phase circuit.
47. Single-phase transformers.
48. Two-phase transformers.
49. Three-phase transformers.
50. Phase transformation.
51. Review questions.⁴
52. Three-phase squirrel-cage motors.
53. Polyphase motor starters: Manual control.
54. Polyphase motor starters: Magnetic and remote control.
55. Review questions.⁴
56. Three-phase slip-ring motors: Manual control.
57. Three-phase slip-ring motors: Magnetic and remote control.
58. Three-phase motor overload protection.
59. Review questions.⁴
60. Universal motor.
61. Single-phase split-phase motors.
62. Single-phase repulsion-induction motors: Brush lifting.
63. Single-phase repulsion-induction motors: Brush riding.
64. Single-phase capacitor motors.
65. Review questions.⁴
66. Standard ratings and types of alternating: Current motors.
67. Three-phase power.
68. Three-phase synchronous motors.
69. Review questions.⁴
70. Three-phase stator windings.
71. Three-phase rotor windings.
72. Common electric troubles and remedies in three-phase squirrel-cage motors.
73. Common electric troubles and remedies in slip-ring motors.
74. Common electric troubles and remedies in synchronous motors.
75. Common mechanical electric troubles and remedies in single-phase motors.
76. Review questions.⁴
77. Two-and four-speed induction motors.
78. Adapting alternating-current machines to changed conditions.
79. Testing alternating motor windings for:
 - (a) Insulation resistance.
 - (b) Opens, shorts.
 - (c) Winding connections.
 - (d) Torque and horsepower.
 - (e) Load tests.
80. Review questions.⁴
81. Alternating-current measuring instruments, current transformers, and potential transformers.
82. Alternating-current switchboards.
83. Review questions.⁴
84. Voltage regulators:
 - (a) Alternate.
 - (b) Line.

LABORATORY TESTING

Further to develop his theoretical knowledge by applying and checking it under practical conditions.

Suggested content

Applied theory (not listed as separate experiments, nor in sequence)

- Use of measuring instruments.
- Measurement of resistance by all methods.
- Methods of power measurement.
- Computation of costs of operating lighting loads.
- Application of laws of series and parallel circuits.
- Primary and secondary cells.

⁴ Requiring outside reading to answer.

Effects of line drop.
 Checking instruments by comparison for accuracy.
 Circuit tracing: Receiver, lamp, bell, instruments.
 Megger and magneto testing.
 Effects of magnetism and electro-magnetism.
 Electro-magnetically induced currents.
 Motors and generators, all types and their auxiliary equipment; connection, operation, reversal, testing, paralleling, speed measurement, speed regulation, diagnosis of trouble.
 Protective equipment.
 Comparison of effect on circuits containing only one and combinations of (a) resistance, (b) inductance, (c) capacitance.
 Text for power factor.

ELECTRICAL DRAWING

To develop an ability to interpret diagrams, sketches, and drawings.

Suggested content

Use of T-square, triangles, and drawing instruments.
 Use of rule to measure distances by scale.
 Electrical symbols and standards practices.
 Circuit diagrams.
 Wiring diagrams of equipment.
 Freehand sketching of simple objects: (a) Orthographic projection, (b) isometric projection, (c) dimensioning.
 Drawing a simple floor plan with electrical lay-out.
 Tests on reading of commercial blueprints of actual jobs by answering prepared questions concerning the prints.

DRAWINGS, DIAGRAM OF ELECTRICAL CIRCUITS

1. Dry-cell connections.
2. Electric symbols.
3. Bell circuits.
4. Annunciator circuits.
5. House telephones.
6. Electric-light circuits.
7. Direct-current motor circuits.
8. Direct-current generators.
9. Armature windings.
10. Direct-current meters and instruments.
11. Switchboards.
12. Manual controls, crane or hoist, speed above and below normal, printing press.
13. Automatic and remote control.
14. Transformer connections one, two, and three phase.
15. Single-phase motors, split-phase repulsion-induction, capacitor, variable-speed, capacitor motor, universal motor, variable-speed brush shifting.
16. Three-phase squirrel cage induction motors with manual starters.
17. Three-phase squirrel-cage induction motors with automatic and remote control.
18. Three-phase slip-ring induction motors with manual control.
19. Three-phase slip-ring induction motors with automatic and remote control.
20. Alternating-current meters and instruments.
21. Synchronous motors with manual control, semiautomatic and automatic control.
22. Alternating-current switchboards.
23. Electronic control circuits.

Free hand drawings, using faint line cross-ruled paper.

Proper use and care of tools.—Demonstration and practice in the proper technique of using hand and power tools with personal safety, and with regard to the cost and life of equipment. Distributors often are glad to demonstrate newly developed tools.

Hand tools and processes.—Drilling and tapping, bolt threading, making typical brackets and hangers, light welding and cutting, folding a box, laying out and cutting holes for conduit with various types of hole cutters and reamers, chipping and filing, sharpening of drills and chisels, bending and flattening heated wrought iron, screw threads, screw gages, use of micrometer and caliper, etc.

RELATED METAL WORK

To acquaint the apprentice with metal working tools and machinery which he may be called upon to use in the electrical field.

Rope work.—Confine to tying and splicing used in electrical rigging and cable pulling. Tying: Square (reef) bowline, clove hitch, girth hitch, barrel hitch, half hitch, single and double bend, bowline-on-a-bight. Splicing: Eye-splice, back-splice, short-splice.

OPERATION, MAINTENANCE, AND REPAIRS

The finished electrician is called upon to operate, maintain, and repair the complete electrical industry. He should continue his study of the industry to keep abreast of the times and should seek information on the following items:

Suggested topics

- Photo-electric cells.
- Automatic elevators and their controls.
- Large synchronous and wound rotor high-voltage motors.
- Motors and their associated controls for air conditioning.
- High-tension transformers.
- Network systems.
- Network projectors
- a. c. and d. c. armature wind.
- Resistance or induction methods of pre-heating and stress relieving.
- Rewinding coils, compensators, and transformers.
- a. c. generators.
- Motor generators, rotary and synchronous converters.
- Electrically operated ventilating equipment.
- Signal systems, such as: Intercommunicating telephone systems and dictographs; public-address systems, sprinkler alarm systems; night watchman report systems.
- Photographic machines, arc and mercury lamps.
- Operation and maintenance of modern projection machines and their complex sound equipment.
- Impulse-type clock systems.
- Storage batteries and charging equipment.
- Laboratory units which call for electrical service in connection with their experiments involving pyrometer control.
- Precipitators operating at 75,000 volts.
- Cranes and skip hoists.
- Coal- and ash-handling equipment.
- Smoke detectors.
- Electrical instruments and their various applications.
- Operation of switchboards in paralleling generators.
- High-voltage oil switches.
- X-ray machines.
- Electrically operated refrigeration for water coolers.
- Knowledge of automatic controls.
- Direct current machinery and circuits.
- Alternating current machinery and circuits.
- Metering equipment—a. c. and d. c.

TRADE TECHNOLOGY

To tie together and condense all the training and experience into practical application; to provide technique and "tricks of the trade," and to provide discussion of recent developments and current problems.

Suggested topics

- First aid.
- Artificial respiration—on ground or elevated.
- Safety methods.
- The National Electrical Code as it applies to grounding sizes of conductors, conduits, fuses, switches, cut-outs, panelboards, etc., permissible materials in prescribed locations, definitions of terms used, interpretation and use of tables.
- Organization of code and how to find desired information, etc.

How inspection departments function.
 The local utility company's plan of distribution, voltages and phase-systems supplied, and their service requirements.
 Substation planning and construction.
 Handling of heavy equipment.
 Transformer connections.
 Vector diagrams and cross-phase voltages.
 Maintenance of equipment.
 Stress welding relief.

VOCATIONAL CIVICS AND ENGLISH

To combine the twofold purpose of improving the apprentice's use of the English language while acquiring a knowledge of the nontechnical things which affect or concern the life of the union electrical worker.

Conference method should be used.

Suggested topics

Oral discussion.—The moral responsibility of an apprentice to the public, to his local union, and to his employer.

Brief history of the labor movement. Advantages versus disadvantages of organized labor to (a) worker, (b) employer.

Parliamentary procedure.

The constitution of the union.

Trade-union ethics.

Proper method of obtaining employment.

Read and discuss sample specifications.

Written work should include: Business correspondence, the writing of minutes, the writing of a resolution, a report of job progress, description of equipment, form of writing an estimate or bill, building-construction reading, welding and brazing.

VII. CONTENT OF TRAINING FOR ELECTRICAL CONSTRUCTION

Training should always be considered the training of an individual, planned to meet his needs and develop his potentialities toward the desired objective of a skilled mechanic.

Electrical-construction work consists of four major elements, namely: Residential, commercial, industrial, and specialized, each of which involves part of the following:

Signal wiring.—Simple call-bell, return-call, burglar alarm, fire alarm, elevator, apartment house, intercommunicating phones, and nurse-call circuits using all types of push buttons and equipment, such as relays, drops, annunciators, etc.

Lighting.—Fundamental lighting circuits, based upon the different kinds of switch control, should first be taught with open work and then repeated and varied with a sufficient number of jobs on each "wiring method" (as listed in the chapter of that name in the National Electrical Code) to familiarize with the fittings and working of that material method.

Fixture work.—Appropriate assembling, wiring, and hanging of fixtures to be included with the wiring.

Joining of wires.—To include, at the appropriate stage of the course, the making of splices and taps and the use of various types of connectors.

Wiring for power.—Arrangement of conduit, fittings, boxes, etc., for the connection of equipment such as starters, compensators, remote-control buttons, etc. Heavy equipment to be set in place by students (preferable, but not essential). Permanent mounting of a few sets suggested.

Rope work.—Confine to tying and splicing used in electrical rigging and cable pulling. Tying: Square (reef) bowline, clove hitch, girth hitch, barrel hitch, half hitch, single and double bend, bowline-on-a-bight. Splicing: Eye-splice, back-splice, short-splice.

Proper use and care of tools.—Demonstration and practice in the proper technique of using hand and power tools with personal safety, and with regard to the cost and life of equipment. Distributors often are glad to demonstrate newly developed tools.

Appliance repair.—Diagnosis and repair of trouble on common appliances supplied by student or teacher. (To include commutator cleaning and turning.)

RELATED METALWORK

To acquaint the apprentice with metalworking tools and machinery which he may be called upon to use in the electrical field.

Power machines.—Use of engine lathe, drill press, grinder, electric drill, power hacksaw, bending machines, and threading machines, electric cranes, and welding machines.

Hand tools and processes.—Drilling and tapping, bolt threading, making typical brackets and hangers, light welding and cutting, folding a box, laying out and cutting holes for conduit with various types of hole cutters and reamers, chipping and filing, sharpening of drills and chisels, bending and flattening heated wrought iron, screw threads, screw gages, use of micrometer and caliper, etc.

VIII. LINE CONSTRUCTION

Training should always be considered the training of an individual, planned to meet his needs and develop his potentialities toward the desired objective of a skilled mechanic.

The complete construction and maintenance of overhead and underground electrical systems for the transmission and distribution of electrical energy for light and power, and communications.

Line work consists of:

1. Erecting and setting posts, poles, and towers.
2. Attaching necessary cross-arm, transformers, circuit-breakers, cut-outs, lightning arresters, anchors, guys, and messenger wires to such structures.
3. Stringing, sagging, insulating, attaching, and connecting of conductors.
4. Installation of underground conduit systems, including conduit, laterals, vaults, sewer drains, and grounds.
5. Installation of underground cable, transformers, switch boxes, loading coils, and similar equipment.

IX. CABLE CONSTRUCTION

Training should always be considered the training of an individual, planned to meet his needs and develop his potentialities toward the desired objective of a skilled mechanic.

Cable work consists of:

1. Test and trace circuits in power and communication systems.
2. Make various types of connections between electrical conductors, such connections to have adequate mechanical strength and electrical carrying capacity for the electrical currents to be carried through such connections.
3. Properly insulate conductors for the voltage conditions under which they are to operate.
4. Where necessary, seal cable joints within a waterproof housing such as a lead sleeve wiped onto the lead-sheathed cables entering the joint.
5. Properly to bond and ground lead-sheaths of cables of all voltages.
6. To make electrical connections between conductors and various types of equipment such as transformers, potheads, terminal boxes, and junction boxes, such connections to be waterproof where necessary.
7. Installing maintenance, repair of oil filled cables.
8. Waterproofing and fireproofing of cables.

X. INDUSTRIAL ELECTRONICS

The following material is presented as a recommended outline of basic training in the theory of electricity for the union apprentice. It is intended as minimum or basic rather than maximum in scope.

Training should always be considered the training of an individual, planned to meet his needs and develop his potentialities toward the desired objective of a skilled mechanic.

Electronics work consists of:

Phototube applications

Photoelectric light control, photoelectric drinking fountain control, photoelectric dumb-waiter control, photoelectric door operation control, photoelectric waft straightening control, photoelectric cut-off in register with imprint in bag making and package wrapping machines, photoelectric safeties for conveyors, stopping them when jams occur, photoelectric synchronizing of two conveyors, photoelec-

tric feeding of can making machines, photoelectric weighing, counting and sorting processes, photoelectric machine for grading products to size and color, photoelectric sheet catching tables in rolling mills, photoelectric kick-off on steel mill run-out tables, photoelectric conveyor control in heat treating furnaces, photoelectric inspection of products for defects, photoelectric alarm equipment visible and invisible, photoelectric smoke density indicator, photoelectric level control, photoelectric indication of paper breaks on paper machines, photoelectric race track finish line judging.

Phanotron applications

Rectifier applications for low power levels, adjustable and self-regulating battery charges, direct current power supply for magnetic chucks and magnetic separators.

Thyratron applications

Automatic control systems for regulating the electrical power input to electric annealing furnaces, air heaters, boilers, steam superheaters, chemical reaction chambers and electric ovens; synchronous thyatron resistance welder control for spot and projection welders; sequence timers for resistance welding; thyatron motor control; control of heating and air conditioning systems; electric furnace temperature control.

Ignition applications

Rectifier applications for high power levels; contactors for spot or seam welding of aluminum alloy, steel, and stainless steel.

Pliotron applications

Control of heating and air conditioning system, grid-controlled high-vacuum-tube amplifier or oscillator, induction heating, dielectric heating, surface hardening.

Kcnotron application

High-voltage rectifier, precipitron equipment, smoke abatement, paint-spraying processes, excess-paint-removal processes, cable testing, X-ray equipment, abrasive paper-coating processes, welding.

Cathode-ray tube applications

Iconoscope, electron microscope, oscilloscopes.

Industrial X-ray tube applications

The 1,000,000-volt industrial X-ray equipment for detecting flaws to depth of 8 inches in steel castings.

XI. SIGNAL SYSTEMS

Training should always be considered the training of an individual, planned to meet his needs and develop his potentialities toward the desired objective of a skilled mechanic.

Signal-maintenance work covers such a broad field with such numerous specializations that the work has been divided into four broad classifications: Fire-alarm and police system, communication system, traffic signal system, interlocking system.

Signal work consists of—

1. To test for and locate electrical trouble on the circuits under his jurisdiction, and also to test and keep in proper operating conditions the various specialized equipment on these circuits.
2. To make permanent or temporary repairs for restoration of service as quickly as possible with the means at his disposal, and to make an intelligent report of work needed to be done, in addition to what he has already done, to restore equipment to normal operating conditions.
3. When not engaged in clearing circuit disturbances which have occurred, he patrols and inspects the equipment under his supervision, making minor repairs and reporting equipment in need of major repairs.
4. He goes to locations where damage to or by the equipment has, or may occur, takes the necessary precautions to protect life and property, and to restore service as quickly as possible, and makes a complete report of his findings and actions taken.
5. He supervises major installations and circuit rearrangements to insure continuity of operation of existing circuits, and to prevent any interruption thereto.

A few of the varied types of equipment which the four classifications of signal-maintenance men must understand and know how to repair and keep in operation are listed:

Fire and police signal system.—Overhead and underground wires and cables, cable terminals, switchboards, telegraph and telephone circuits, fire-alarm and police boxes, registers, relays, sounders, repeaters, motors, generators, batteries, use of Morse code, radio transmission and reception.

Communication system.—Similar to fire and police signal system but more specialized, handling principally telephone and telegraph circuits and equipment.

Traffic-signal system.—Overhead and underground wires and cables, stop-watch timing of signal operation, motors, relays, mechanical and magnetic traffic detectors, photoelectric circuits and equipment, electric time clocks, electric traffic controllers, interconnection of traffic signals with automatic railroad gate equipment and track circuits.

Interlocking signal system.—Overhead and underground wire and cable; various types of circuits; electrical, mechanical, hydraulic, pneumatic, and manual equipment of a wide variety for operating gates, signals, switches, and similar equipment; telegraph equipment; use of the Morse code.

Practical experience is fundamental to attainment as an operator in this field. Signal system work consists of—

1. Dispatch fire-fighting equipment rapidly and efficiently.
2. Cooperate with the fire-alarm system maintenance man in the efficient maintenance of the fire-alarm circuits and equipment to the end that there will be an absolute minimum of interruption of service or readiness to serve function of this equipment. To accomplish this result, the signal-system operator must have been first a qualified and experienced signal-system maintenance man in this field.

XII. LIGHT AND POWER SYSTEMS (GENERATION)

Training should always be considered the training of an individual, planned to meet his needs and develop his potentialities toward the desired objective of a skilled mechanic.

A generation and distribution station operator is a journeyman electrical worker who has the necessary theoretical and practical training to perform efficiently the following work:

1. Check all equipment under his jurisdiction when he comes on duty to make sure that subsequent operation of such equipment may be safe.
2. Operate necessary manual and remotely controlled oil switches and disconnects to accomplish the necessary interconnection or disconnection of lines, busses, generators, motors, exciters, converters, transformers, capacitors, condensers, and other equipment.
3. Accurately record all such operations.
4. Accurately read all meters at proper intervals and record such readings in the proper manner.
5. Promptly and safely carry out all orders from load dispatchers or other proper authority.
6. Know and obey all safety rules for the protection of life and property.
7. Cooperate intelligently with maintenance men working on the circuits.
8. Perform various regular and emergency duties such as replacement of fuses, maintenance of batteries, checking of relays, cleaning commutators, and slip rings on rotating equipment.

XIII. LIGHT AND POWER SYSTEMS (DISTRIBUTION)

Training should always be considered the training of an individual, planned to meet his needs and develop his potentialities toward the desired objective of a skilled mechanic.

1. To test for and locate electrical trouble on the circuits under his supervision.
2. To make permanent or temporary repairs for restoration of service as quickly as is consistent with safety and the limited means at his disposal; and to make an intelligent report of work needed to be done, in addition to what he has already done, to restore equipment to normal operating condition.
3. When not engaged in clearing circuit disturbances which have occurred, he also patrols and inspects the equipment under his supervision, making minor repairs and reporting equipment in need of major repairs.
4. He goes to the location where damage to or from the equipment may be imminent, such as fires, wash-outs, fallen trees, or similar emergencies, and takes the necessary precaution to prevent such damage.

5. He goes to locations where damage to or by the equipment has happened such as person injured by electrical contact, poles and wires knocked or blown down, manholes or trees on fire; takes the necessary emergency measures to protect life and property, and to restore service if interrupted; and makes a complete report of his findings and actions taken.

6. Full knowledge of air compressor system for air-blast breakers and switches.

XIV. REPAIRS AND WINDING

Training should always be considered the training of an individual, planned to meet his needs and develop his potentialities toward the desired objective of a skilled mechanic.

Electrical repair shop and winder apprentice.—Opportunities to work at and instructions in the following processes should be given, but not necessarily in this sequence.

1. *General operation.*—Sweep, errands; clean motors; put away tools, materials, etc.; salvage usable and salable materials; paint motors and windings; assist other workers; disassemble and assemble motors; learn electrical terms, names, and users of electrical equipment, tools, and materials; keep soldering equipment in good working order; oil motors and line shafting; learn use of wire gage and micrometer.

2. *Strip windings.*—Strip stator and armature windings; observe and record name plate and winding date; clean slots and frames; clean and tin bar-wound coils.

3. *Coil winding.*—Check data on old coils; wind and spread stator and armature coils; tape and sleeve coils; check and test armature and stator coils for size, span, turns size wire, opens, shorts, make coil forms; wind and insulate field coils; learn relation between wire sizes and proper selection of substitute size.

4. *Transformers.*—Punch and cut laminations; clean and stack laminations; cut insulation; wind transformers; tape coils; put on leads; assemble transformers; test transformers for insulation break-downs; opens, shorts, ratio, insulation resistance, magnetizing current, iron and copper loss; learn construction features and characteristics of series and potential, auto, insulated, single and polyphase, phase changing, spot welder, booster, line-voltage-regulating transformers.

5. *Repairing direct-current machine.*—Locate and repair troubles in fields, armature, bearings, brush holders, commutators; wind armature; rebuild commutators; test armatures for shorts, open and grounded coils, shorted commutator bars; replace brushes, adjust, align, stagger and locate correct brush positions; remedy conditions causing sparking at brushes, racing, reduced speed, sudden reversals, unsoldering of commutator leads; check fields and interpoles for correct polarity and compounding; check for loose armature core, commutator, and field poles; measure field and armature currents; check air gaps; band and balance armatures; solder, turn, and undercut commutators; check armature shaft centers, inspect oil rings, replace bearings, adjust end play; cut out and replace armature coils; reconnect armature and fields for different operating voltage or speed; correct noise, vibrations, and oil leakage; test motors for speed, load, torque; connect generators for proper direction of rotation, compoundings, parallel operations; locate and repair troubles in arc-welding generators; equip motors and generators with proper connecting boxes; check armature shaft and keyway; check lubricating; make temporary armature and field repairs.

6. *Repairing alternating-current machines.*—Locate and repair troubles in stator and motor windings; slip rings, brush holders, and bearings of AC machines; test stators for insulation break-downs, opens, shorts, wrong connection in windings; wind stators and rotors; connect stators and rotors for other voltages and speeds; cut out and replace coils; check windings with name-plate date; test motors for no load and load currents, single phasing, and torque; check for loose rotor stator cores; proper alignment of cores, loose slip rings, end play, shaft size, keyways, loose head bolts, oil rings and lubrication; test squirrel-cage rotors for opens, loose bars, end rings and fans; band and balance rotors; replace slot wedges; make temporary repairs to AC stator and rotor windings.

7. *Repairing AC and DC starters and controllers.*—Locate and repair troubles in all types of AC and DC motor starters; repair and rewind holding coils, adjust locking devices, dash pots, and overload devices; change tap connections; locate and repair troubles in slip-ring motor starters and control resistance, across-the-line starters, automatic and reversing starters, elevator, crane, hoist, printing

press, laundry, face plate and drum type, dynamic braking, regenerative braking, interlocking and sequence type of control.

8. *Switchboards, instruments, and meters.*—Connecting, use of, construction, and operation of portable and switchboard types of ammeters, voltmeters, wattmeters, watt-hour meters, ampere-hour meters, meggers, ohmmeters, clamping transformers, current and potential transformers, shunts and multipliers, indicating, integrating, and recording; switchboard lay-out, construction, testing, and repair; oil switches and circuit breakers.

9. *Small-motor and appliance repairs.*—Locating and repairing troubles in small motors of vacuum cleaners, drills, portable tools, fans, wash machines, refrigerators, etc.; winding stators and rotors of fractional-horsepower motors; testing and checking small motors for electrical and mechanical troubles, starting torque, etc.; repair appliances.

10. *Outside service and repairs.*—Service and repairs to all types of electrical machinery, wiring, and equipment.

11. Miscellaneous related work.

12. *Schooling.*—Day-school attendance required for 8 hours every other week during the school year without loss of pay for first 3 years of apprenticeship training.

School subjects:

	<i>Periods per day</i>
(a) Electrical circuits and diagrams-----	2
(b) Elementary theory of electricity-----	2
(c) Fundamental and applied mathematics-----	1
(d) Electrical code-----	2

Recommendations: Those unable to complete course during day should attend night school.

Credits and exemptions: An apprentice wishing to be exempted from attending school must produce evidence of previous equivalent schooling and take an examination consisting of 20 oral and 20 written problems or questions and pass with a grade of 80 percent. Examinations to be prepared and supervised by the apprenticeship committee.

Licensed maintenance electrician.—A licensed maintenance electrician is an electrical worker who has acquired the necessary theoretical and practical knowledge of commercial and industrial electrical applications to enable him to efficiently repair, maintain, and operate the following electrical equipment:

1. Lighting circuits and control equipment of incandescent, fluorescent, cold cathode lighting, and electrical lighting for advertising purposes.

2. Signal equipment, including intercommunicating, detection, safety signals, elevator signal systems, and public-address systems.

3. Electrical motors and their application to pumps, fans, dumbwaiters, elevators, and power-driven machinery in industry.

Motor and motor-control equipment.—Generation, rectification, and distribution of electricity for power and light transformers. Switchboard equipment for light and power. The reading and application electrical indicating recording meters; use of electrical testing instruments; control systems of automatic heating equipment; electrical industrial heating and drying processes; control system for air-conditioning equipment; electronic precipitron equipment; photoelectric inspection, counting, sorting, and control equipment; elevator equipment; electric cranes, and other specialized electrical applications depending upon the particular branch of commerce or industry in which the man is employed.

NATIONAL JOINT APPRENTICESHIP AND TRAINING COMMITTEE FOR THE ELECTRICAL INDUSTRY

(Address)

APPRENTICESHIP AGREEMENT

This agreement, entered into this _____ day of _____, 19____, between the parties to _____

_____ Name of electrical apprenticeship standards
represented by the Joint Apprenticeship Committee, hereinafter referred to as the
Committee and _____, hereinafter referred to as the

_____ Name of apprentice
apprentice (and if a minor) _____

_____ Name of parent (or guardian)
hereinafter referred to as his guardian.

Witnesseth that

Whereas, in order to preserve and perpetuate the skills essential to true craftsmanship and to maintain the ranks of skilled mechanics in the electrical industry; and

Whereas the above named Electrical Apprenticeship Standards have been developed in conformity with the National Electrical Apprenticeship Standards which have been registered with the Federal Commission on Apprenticeship, Apprenticeship Training Service; and

Whereas the apprentice through his parent (or guardian) has expressed a desire to enter the required period of apprenticeship subject to the aforementioned Standards,

Now, therefore, in consideration of the premises and the mutual covenants herein contained the parties hereto do hereby agree as follows:

That the Committee shall provide employment and training to the Apprentice in accordance with the standards herein referred to

That the apprentice shall perform diligently and faithfully the work of said trade during the period of apprenticeship, in conformity with the aforementioned standards and in accordance with the rules and regulations of the said Joint Apprenticeship Committee.

That the Guardian will make all reasonable efforts to assure proper and diligent performance by the apprentice of all obligations assumed under this agreement.

The Electrical Standards referred to herein is hereby incorporated in and made a part of this agreement.

In witness whereof the parties hereunto set their hands and seals.

-----	[SEAL]	-----	[SEAL]
Apprentice		Representative of Joint Apprenticeship Committee	
-----		-----	
Address		Title	
-----	[SEAL]	-----	[SEAL]
Parent (or guardian)		Representative of Joint Apprenticeship Committee	
-----		-----	
		Title	
Registered by the -----		-----	
by -----	Title -----	Date -----	, 19-----
The undersigned agrees to provide employment and training in accordance with standards named herein.			
1st -----	2d -----	-----	
Employer	Employer		
3d -----	4th -----	-----	
Employer	Employer		

CERTIFICATE OF COMPLETION OF APPRENTICESHIP

NATIONAL JOINT APPRENTICESHIP AND TRAINING COMMITTEE FOR THE ELECTRICAL INDUSTRY

By this certificate declares that ----- is qualified as a journeyman by having served his apprenticeship according to the National Apprenticeship and Training Standards for the electrical industry approved by the National Electrical Contractors Association and the International Brotherhood of Electrical Workers in cooperation with the Federal Committee on Apprenticeship.

Done this ----- day of ----- 19-----.

[Name of City]

JOINT APPRENTICESHIP AND TRAINING COMMITTEE,

NATIONAL JOINT APPRENTICESHIP AND TRAINING COMMITTEE FOR THE ELECTRICAL INDUSTRY,

Chairman

Secretary

Chairman

Secretary

NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION,
Washington 5, D. C., February 20, 1945.

To All Electrical Contractors and Local Associations in the Electrical Construction Industry:

The National Electrical Contractors Association, at its forty-third annual meeting held at French Lick, Ind., on October 5, 1944, gave unanimous approval to the revision of the National Apprenticeship and Training Standards, originally introduced in October 1941, through the cooperative efforts of the National Joint Apprenticeship Committee for the Electrical Industry, composed of representatives of the International Brotherhood of Electrical Workers and this association, with the assistance of the Federal Apprentice Training Service.

The rapid growth of the electrical industry and the advancement of its technical demands upon craftsmanship, require constant review of established standards. The National Joint Apprenticeship and Training Committee was assigned the responsibility of revising the original National Apprenticeship Standards to extend their scope to cover all branches of electrical work. The revised Standards published in this bulletin are the result of the complete cooperation and harmony between employers and labor which have prevailed throughout this undertaking.

Our responsibility as electrical contractors is to insure for our industry an adequate supply of competent craftsmen to serve the public's needs. A productive apprenticeship and training program that will bring in a constant flow of thoroughly trained electrical workers is vital to our industry; every electrical contractor, therefore, is obliged to sponsor and support such a program in his locality.

We strongly recommend all local associations to cooperate with local organizations of electrical workers in establishing an apprenticeship and training system for the electrical industry in their particular locality. These National Apprenticeship and Training Standards outline suggested methods and procedures, and are a framework within which the local apprenticeship and training program may be built.

The National Electrical Contractors Association urges immediate action on the part of everyone concerned in developing a sound national apprenticeship and training system in the electrical industry, and stands ready to offer all possible assistance in the achievement of this objective.

Yours very truly,

ROBT. W. MCCHESENEY,
President,
 E. H. HERZBERG,
Chairman,
NECA Apprenticeship Committee.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,
Washington, D. C., April 16, 1945.
 APPRENTICE-TRAINING SERVICE, WAR MANPOWER COMMISSION.
Washington, D. C.

GENTLEMEN: The International Brotherhood of Electrical Workers gave whole-hearted approval on October 14, 1941, of the National Electrical Apprenticeship Standards developed by the National Joint Apprenticeship Committee for the electrical construction industry.

We felt it was essential that the employer and labor organization be in agreement concerning the standards and rules of employment and training if the level of apprentice training was to be uniformly raised throughout the Nation.

Our successful experience demonstrated the need to establish apprenticeship standards applicable to all the highly skilled branches of the electrical industry, therefore, our National Joint Apprenticeship and Training Committee was given responsibility to revise the national standards.

The brotherhood is anxious to expand its apprenticeship program, consistent with the standards expressed in this document, to all affiliated local organizations, and is prepared to give all possible assistance in helping to organize and maintain local apprentice-training programs.

The assistance and cooperation of representatives of the Apprentice-Training Service of the War Manpower Commission in the preparation and publication of this document is greatly appreciated. The ATS representatives in the field

are prepared to assist respective local organizations with their apprentice training problems. We have requested that they make themselves known at the earliest possible time.

Respectfully yours,

ED J. BROWN,
International President.

G. M. BUGNIAZET,
International Secretary.

STATE APPRENTICESHIP AGENCIES

(Including names of full-time directors)

Arizona Apprenticeship Council*, Department of Labor, Phoenix, Ariz.
 Arkansas Apprenticeship Council*, Department of Labor, Little Rock, Ark.
 Archie J. Mooney, Secretary, California Apprenticeship Council*, Department of Industrial Relations, San Francisco, Calif.
 Connecticut Apprenticeship Council, Department of Labor, Hartford, Conn.
 Florida Apprenticeship Council, State Industrial Commission, Tallahassee, Fla.
 Eugene H. Jordan, Director of Apprenticeship, Hawaii Apprenticeship Council*, Department of Labor and Industrial Relations, Honolulu, T. H.
 Iowa Apprenticeship Council, Bureau of Labor, Des Moines, Iowa.
 Kansas Apprenticeship Council, Labor Department, Topeka, Kans.
 Kentucky Apprenticeship Council*, Department of Industrial Relations, Frankfort, Ky.
 Louisiana Apprenticeship Council*, Department of Labor, Baton Rouge, La.
 Maine Apprenticeship Council*, Department of Labor and Industry, Augusta, Maine.
 Massachusetts Apprenticeship Council*, Department of Labor and Industries, Boston, Mass.
 Frank Musala, Director of Apprenticeship, Minnesota Apprenticeship Council*, St. Paul, Minn.
 Montana Apprenticeship Council*, Division of Labor, Helena, Mont.
 Nevada Apprenticeship Council, Department of Labor, Carson City, Nev.
 New Hampshire Apprenticeship Council, Bureau of Manufacturing, Manchester, N. H.
 New Mexico Apprenticeship Council, Labor and Industrial Commission, Albuquerque, N. Mex.
 John J. Sandler, Director of Apprentice Training, New York State Apprenticeship Council*, New York Department of Labor, Albany, N. Y.
 Clarence Beddingfield, Director of Apprenticeship, North Carolina Apprenticeship Council*, Department of Labor, Raleigh, N. C.
 Ohio Apprenticeship Council, Department of Industrial Relations, Columbus, Ohio.
 Lorrie H. Andrews, Director of Apprenticeship, Oregon Apprenticeship Council*, Department of Labor, Portland, Oreg.
 Pennsylvania Apprenticeship Council, Department of Labor and Industry, Harrisburg, Pa.
 Rhode Island Apprenticeship Council, Department of Labor, Providence, R. I.
 Vermont Apprenticeship Council, Department of Industrial Relations, Montpelier, Vt.
 Robert H. Wilson, Director of Apprenticeship, Virginia Apprenticeship Council*, Department of Labor and Industry, Richmond, Va.
 Washington Apprenticeship Council*, Department of Labor and Industry, Seattle, Wash.
 Walter F. Simon, Supervisor of Apprenticeship, Wisconsin Industrial Commission*, Madison, Wis.

REGIONAL OFFICES, APPRENTICE TRAINING SERVICE, WAR MANPOWER COMMISSION

For information regarding the services of field representatives of the apprentice-training service in the establishment of apprenticeship systems and other

*State apprenticeship law enacted.

types of in-plant training programs, communicate with the representative at the nearest regional office listed below:

- Region I** (Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut) : Joseph E. Johnson, supervisor, room 744, 55 Tremont Street, Boston, Mass.
- Region II** (New York State) : John M. Marion, supervisor, room 617, Old New York State Building, New York, N. Y.
- Region III** (Pennsylvania, New Jersey, Delaware) : Glenn H. Feller, supervisor, 811-812 Stephen Girard Building, Philadelphia, Pa.
- Region IV** (Maryland, Virginia, West Virginia, North Carolina, District of Columbia) : Robert F. Handley, supervisor, 433 Third Street NW., Washington, D. C.
- Region V** (Ohio, Michigan, Kentucky) : John E. Morley, supervisor, room 674, Union Commerce Building, Cleveland, Ohio.
- Region VI** (Illinois, Indiana, Wisconsin) : Edward C. Madsen, supervisor, 222 West Adams Street, Chicago, Ill.
- Region VII** (South Carolina, Georgia, Tennessee, Mississippi, Florida, Alabama) : Charles N. Conner, supervisor, 622 Grand Theater Building, Atlanta, Ga.
- Region VIII** (North Dakota, South Dakota, Nebraska, Iowa, Minnesota) : John F. Barrett, supervisor, room 500, Midland Bank Building, Minneapolis, Minn.
- Region IX** (Missouri, Kansas, Arkansas, Oklahoma) : Taylor F. Custer, supervisor, room 1600, Fidelity Building, Kansas City, Mo.
- Region X** (Louisiana, Texas, New Mexico) : Travis J. Lewis, supervisor, sixth floor, Mercantile Bank Building, Dallas, Tex.
- Region XI** (Montana, Idaho, Utah, Wyoming, Colorado) : Clifford B. Noxon, supervisor, room 614, Security Life Building, Denver, Colo.
- Region XII** (Oregon, Washington, Arizona, Nevada, California) : Broncel R. Mathis, supervisor, room 701, Western Furniture Exchange & Merchandise Mart, San Francisco, Calif.

VOLUNTARY ARBITRATION

(The Council on Industrial Relations for the electrical contracting industry)

The Council on Industrial Relations is a tribunal capable of and prepared to serve the entire electrical industry. Any segment of the electrical industry, where contractual relations exist between employers and the International Brotherhood of Electrical Workers, may avail itself of the tested machinery of arbitration afforded by the Council.

Write to Secretary, Council on Industrial Relations, 1200 Fifteenth Street NW., Washington 5, D. C.

Dedicated to two illustrious pioneers in modern labor-management relations:

L. K. Comstock.

Charles P. Ford.

One an employer, and one a worker—both shared an aversion for disorderly, violent settlement of industrial disputes. Together they were the principals in establishing the Council on Industrial Relations.

Officers.—Robert W. McChesney, chairman; Investment Building, Fifteenth and K Streets NW., Washington 5, D. C. Dan W. Tracy, vice chairman; 1200 Fifteenth Street NW., Washington 5, D. C. M. H. Hedges, secretary; 1200 Fifteenth Street NW., Washington 5, D. C. Paul M. Geary, treasurer; Ring Building, Eighteenth and M Streets NW., Washington 6, D. C.

Council Personnel.—For the National Electrical Contractors Association, IBEW Employers Section: E. C. Carlson, Youngstown, Ohio; Robert W. McChesney, Washington, D. C.; J. Norman Pierce, Chicago, Ill.; J. M. Richardson, Roanoke, Va.; Teo L. Rosenberg, Oakland, Calif. For the International Brotherhood of Electrical Workers: Dan W. Tracy, Washington, D. C.; Frank C. Riley, Detroit, Mich.; William Shaffer, Plainfield, N. J.; William Shord, Pittsburgh, Pa.; M. L. Ratcliff, San Diego, Calif.

DIRECTIONS FOR APPLICATION TO THE COUNCIL

For the purpose of enabling employers and employees in the electrical contracting industry to refer cases in dispute to the council for adjudication, the following rules and regulations should be observed.

1. Apply to the secretary of the council for a submission blank, and if wages are in dispute, for a questionnaire blank.
 - (a) Read blanks carefully and note what is required by the council.
 - (b) Fill out the blanks in detail and completely.
 - (c) Each disputant must sign the same submission blank.
 - (d) Each disputant must sign the same questionnaire.
 - (e) Mail or deliver the submission blank and the questionnaire to the Secretary of the council.
 - (f) Applicants will be notified by mail, telephone, or telegraph, the date and place of the meeting of the council called to consider the case.
2. Each disputant is urged to send a representative to appear before the council to support his brief orally. Personal appearances, while considered desirable, are not required.
3. Before consideration is given to any dispute by the council, briefs must be filed by both disputants with the council; and, in addition thereto, each disputant must file a copy of its brief with the other disputant.
4. Each brief must contain all the facts tending to support the contention of the disputant presenting the brief.
5. Opportunity will be given for oral argument in support of disputant's brief.
6. Accompanying each submission blank, when the dispute concerns wages, there must also be a questionnaire blank filled out as fully as possible. Both submission and questionnaire blanks will be furnished by the council.

COUNCIL STRUCTURE AND RULES OF PROCEDURE

I. The name of this body, created April 30, 1920, by the joint action of the National Electric Contractors Association and the International Brotherhood of Electrical Workers (hereinafter called the member organizations) shall be the Council on Industrial Relations for the Electrical Contracting Industry, hereinafter referred to as the council.

II. It is the primary purpose of the two member organizations to remove the causes of friction and dispute in the electrical contracting industry. Therefore, a principal function of the council shall be that of study and research to the end that it may act with the fullest knowledge of these causes, and that it may secure the largest possible measure of genuine cooperation between the member organizations and generally between management and labor for the development of the industry as a servant to the public and for the improvement of the social and economic conditions of all engaged in the industry.

III. The council earnestly urges upon the member organizations and each constituent body of them, that reasonableness, patience, good will and a serious endeavor to see the merits and justice of claims put forward by the other party, which in this, as in all other efforts of men to substitute harmony for strife, are an indispensable foundation for cooperative effort without which the council cannot achieve success in its purpose.

IV. The council shall consist of five representatives appointed by each of the member organizations to serve for such term as each may decide. Vacancies from any cause shall be filled by the respective organization in whose representation the vacancy exists.

V. Representatives shall serve without compensation from the council.

VI. Either member organization may withdraw its representatives from the council on 3 months' written notice to the other member organization.

VII. Regular meetings of the council shall be held quarterly at a time and place to be determined by the chairman. Special meetings may be called by the chairman and shall be called on written request to the chairman by three members. All meetings of the council shall be open to the public, but the council reserves to itself the right to go into executive session at any time, if in its judgment matters before it for consideration may be better or more expeditiously handled in executive session. After all written and oral evidence in a case is presented, and the case pronounced closed by the chairman, further consideration shall be given and a decision reached by the council sitting in executive session.

VIII. A quorum shall consist of three of the representatives of each member organization. The representatives of each member organization present at any meeting shall have the right to cast the votes of their absent representatives, and in the absence of a quorum shall appoint one alternate to take the place of an absent representative. The first regular meeting each year shall be the annual meeting for the election of officers.

IX. The council shall elect at its annual meeting a chairman, a vice chairman, and shall appoint a treasurer and a secretary. The secretary and treasurer may be, but need not be, the same person. He may, but need not be, a member of the council. All officers shall serve 1 year and until their successors are elected. An officer may succeed himself.

X. The council may appoint such committees from time to time as may be considered advantageous by the council in promoting its purposes. The council may delegate special powers to any committee it appoints. The council may appoint on a committee or may allow committees to select persons of special ability and knowledge, not members of the council, to serve in a consulting capacity. The chairman of each such committee shall be a member of the council. All such committees shall report their findings and recommendations to the council or to its secretary as instructed.

XI. All officers shall serve without compensation. The council may rent a suitable office and purchase or otherwise acquire equipment for it; and it may hire such persons as may be needed to perform the office work incident to the operation of the council. The expenses incurred by the council shall be borne equally by the member organizations.

XII. No decision shall be rendered by the council except in writing and only then by due authorization of the council.

XIII. No agreement of any kind shall be made by any member of the council tending in any way to sway the judgment of the council in reaching a decision when sitting as a tribunal.

POLICIES

The council differs from so-called arbitration boards in that it professes to be a court of justice and not merely a court of arbitration. It proceeds on the theory that arbitration involves compromise, which seems to mean in some minds adding up the claims of both sides of a dispute and dividing the sum by two; while judicial settlement involves the application of definite and certain principles without any accommodation between the parties.

Emphasis should be laid upon the council's abandonment of the philosophy of power and struggle. The council has clothed itself with no mandatory powers. It relies upon the individual's instinctive spirit of fairness and the theory that the public will think and act correctly when it has the facts. Publicity and public opinion are the only agencies by which the council proposes to win recognition of its pronouncements.

The council has adopted the following precepts for its own guidance when acting as conciliator in disputes:

(1) The council views with disfavor sudden changes in wages, as unfair to employers on account of contract commitments. The council likewise, and for the same reason, discourages retroactive wage advances, unless requested by both disputants. The council reserves the right, however, to render decisions making sudden changes, or retroactive changes, or both, if in special cases the facts appear to warrant such action.

(2) Industrial enterprise as a source of livelihood for both employer and employee, should be so conducted that due consideration is given to the situation of all persons dependent upon it.

(3) The public interest, the welfare and prosperity of the employer and employee, require adjustment of industrial relations by peaceful methods.

(4) Regularity and continuity of employment should be sought to the fullest extent possible and should constitute a responsibility resting alike upon employers, wage earners, and the public.

(5) The right of workers to organize is clearly recognized as that of any other element or part of the community.

(6) Industrial harmony and prosperity will be most effectually promoted by adequate representation of the parties in interest. Existing forms of representation should be carefully studied and utilized insofar as they may be found to have merit and are adaptable to the peculiar conditions of the electrical industry.

(7) Whenever agreements are made with respect to industrial relations they should be faithfully observed.

(8) Such agreements should contain provision for prompt and final interpretation in the event of controversy regarding meaning or application.

(9) Wages should be adjusted with due regard to purchasing power of the wage and to the right of every man to an opportunity to earn a living, and accumulate a competence; to reasonable hours of work and working conditions;

to a decent home, and to the enjoyment of proper social conditions, in order to improve the general standard of citizenship.

(10) Efficient production in conjunction with adequate wages is essential to successful industry. Restriction of output is harmful to the interest of wage earners, employers, and the public and should not be permitted. Industry, efficiency, and initiative whenever found, should be encouraged and adequately rewarded, while indolence and indifference should be condemned.

(11) Continuing agreements are recommended, provided they contain provisions for settling disputes, and for composing differences arising from controversial subjects by reference to disinterested and competent judges.

COUNCIL, PAST AND PRESENT

The council was conceived in the era following the First World War. Now after more than a quarter century of operation, the council, and the council idea, is being accorded wide acceptance, in the era following the Second World War.

Preceded by several years of formative plans, the council was actually organized on January 26, 1920. It has been a going concern ever since, and has heard 47 cases and promulgated 47 decisions; but also in that period it has developed a body of industrial principles and traditions, which has gone a long way toward stabilizing a growing segment of the turbulent building-construction industry.

The bald statement of fact, that is, the council has rendered 47 decisions, does not measure the scope of the council's influence. Many cases are settled in advance of council hearings, by the very fact that the council stands ready to hear cases.

The council was formulated by both employers and unionists. It was not the product of organic growth in 1920, but an instrumentality forged outright by practical men, out of their hard experience in industry, imbued with a single idea, namely, there is a better way to settle labor disputes than by strikes. The principles which they developed in the beginning still stand as lasting standards which have not been surpassed by ruling of any labor tribunal in intervening years.

The Building and Construction Trades Department of the American Federation of Labor announced a similar plan in February 1947.

Fortune magazine carried an article describing fruits of union-management cooperation, result of the relations developed by the council.

The United States Department of Labor has given wide publicity to the success of the council idea.

The cooperative plan insures democracy by dealing with the voluntary society of the workers; it guards management by making it the central source of power in the industry; it establishes industrial government without aid of the state; it secures stability without fixity; it elevates craftsmanship and technology to places of prominence. It has features not dissimilar to those of the once-projected guild socialism, with the added virtue of being a going concern.

Following the meeting of the conference in November 1918, and pursuant to a resolution adopted at that meeting, a joint committee of the IBEW and of the conference club (a small group of important electrical contractors) met in New York on March 5 and 6, 1919, for the general purpose of drafting a national labor agreement. After a general discussion, the joint committee arrived at the unanimous conclusion that a labor agreement—in the old sense of the term—was neither needed nor wanted at that time of transition from the century of old antagonism between employer and employee to an industrial future in which the relations between them must be that of coworkers with a single interest. Knowing from experience the subtle treachery of misunderstandings, and also the wholesome, corrective and cooling effect of frank discussion, the members of the committee agree, without a dissenting vote, that the essential requirement was to effect an understanding between employers and employees that would provide for their close cooperation in meeting and solving the problems involved in the changing order.

The committee prepared, therefore, not a labor agreement, but a joint declaration of purpose; a program for future joint action.

It was first intended that the IBEW and the conference club should be the joint subscribers to the declaration. But it was thought that the limited membership of the conference club would constitute a bar against a wide application of the principles declared to be fundamental, and also against the greatest pos-

sible number securing the benefits of cooperative action. It was decided, therefore, that the National Association of Electrical Contractors and Dealers ought to be the signatory employer organization. To that end the conference club members of the joint committee agreed to submit the declaration to the conference club with the recommendation that the conference club transmit it to the advisory board of the national association, with a second recommendation that the advisory board urge upon the national association the adoption by it of the declaration.

These successive steps were taken. The report of the conference club committee was adopted at the meeting on May 1, 2, and 3. The conference club transmitted the report to the advisory board, and the advisory board in turn presented it to the executive committee of the national association with the recommendation that the national association become a signatory jointly with the IBEW.

At the request of the executive committee, the convention of the National Association of Electrical Contractors and Dealers, held in July 1919, adopted the following declaration of purposes—afterward called the declaration of principles:

PREAMBLE

The vital interests of the public, and of employee and employer in industry are inseparably bound together. All will benefit by a continuous peaceful operation of the industrial process and the devotion of the means of production to the common good.

PRINCIPLES

(1) The facilities of the electrical industry for service to the public will be developed and enhanced by recognition that the overlapping of the functions of the various groups in the industry is wasteful and should be eliminated.

(2) Close contact and a mutually sympathetic interest between employee and employer will develop a better working system and will tend constantly to stimulate production while improving the relationship between employee, employer, and the community.

(3) Strikes and lock-outs are detrimental to the interests alike of employee and employer and the public and should be avoided.

(4) Agreements or understandings which are designed to obstruct directly or indirectly the free development of trade, or to secure to special groups special privileges and advantages are subversive of the public interest and cancel the doctrine of equality of rights and opportunity, and should be condemned.

(5) The public interest is conserved, hazard to life and property is reduced, and standards of work are improved by fixing an adequate minimum of qualifications in knowledge and experience as a requirement precedent to the right of an individual to engage in the electrical-contracting industry, and by the rigid inspection of electrical work, old and new.

(6) Public welfare, as well as the interests of the trade demands that electrical work be done by the electrical industry.

(7) Cooperation between employee and employer acquires constructive power, as both employees and employers become more completely organized.

(8) The right of employees and employers in local groups to establish local wage scales and local working rules is recognized and nothing herein is to be construed as infringing that right.

The convention authorized the executive committee, which met at the close of the convention, to appoint a committee of five to deal with a similar committee of five, if and when appointed by the International Brotherhood of Electrical Workers, for the purpose of taking such action as seemed appropriate for translation of these principles into action.

The convention of the International Brotherhood of Electrical Workers assembled in New Orleans in September 1919 adopted the above principles and appointed a committee of five to deal with the committee of five authorized by the National Association of Electrical Contractors and Dealers.

The two committees (10 in number) met in joint conference on January 26, 1920, and adopted the following resolution:

Resolved:

(1) That a national council be created consisting of five accredited representatives of the National Association of Electrical Contractors and Dealers, and five accredited representatives of the International Brotherhood of Electrical Workers.

(2) That the council select a chairman, a vice chairman, a secretary, and such other officers as may be decided upon by the council.

(3) That the council shall meet upon the call of the chair, or on written request to the chair by three members.

(4) That all meetings of the council shall be open to the public.

(5) That the council shall make all necessary provisions for the transaction of business and adopt such rules of procedure as may be deemed advisable from time to time.

(6) That the council may appoint from time to time such committees as may be deemed advisable by the council.

(7) That a quorum shall consist of a majority of the representatives of each organization. The representatives of each organization present at any meeting shall have the right to cast the votes of the absent representatives, and in the absence of a quorum, shall appoint one alternate to take the place of an absent representative.

(8) When called upon, the council may act as conciliator in adjusting disputes; and be it further

Resolved, That the joint conference committee constitute itself the national council provided for under section 1 of paragraph 1 of the resolution, subject to ratification of this action by the executive committee of the National Association of Electrical Contractors and Dealers and of the executive council of the International Brotherhood of Electrical Workers, necessary to secure to the national council its status to officially interpret and carry out the propositions laid down in the declaration of principles for the two organizations it represents; and be it further

Resolved, That upon such ratification, and as soon thereafter as may be practicable, the national council meet on the call of the temporary chairman to effect a permanent organization and to formulate recommendations to be made to the National Association of Electrical Contractors and Dealers and the International Brotherhood of Electrical Workers with respect to the terms of office of their respective representatives and the procedure for succession.

The committee recommends adoption by the executive committee of the National Association of Electrical Contractors and Dealers of the following resolution:

Resolved, That the national executive committee hereby approves and accepts the report of the committee appointed to confer with organized labor pursuant to the resolution adopted by the July, 1919, convention of the National Association of Electrical Contractors and Dealers, and by the executive committee on July 19, 1919, and ratifies the joint action taken by the said committee representing the National Association of Electrical Contractors and Dealers and the committee representing the International Brotherhood of Electrical Workers at the meeting on January 26, 1920, as recorded in the resolution reported, which resolution is attached hereto and made a part of this ratification.

The executive committee of the National Association of Electrical Contractors and Dealers unanimously adopted the resolution recommended in the above report on January 27, 1920.

On May 2, 1930, the Electrical Guild of North America was organized in Washington, D. C.

On the following September 3, the executive committee of the guild adopted the following resolution:

Whereas, the council on industrial relations has been supported since October, 1922, jointly by the I. B. E. W. and the union shop section of the Association of Electragists, International and

Whereas, the union shop section of the A. E. I. (Association of Electragists was the successor, in name, of National Association of Electrical Contractors and Dealers) was discontinued by constitutional amendment August 18, 1930, without making any provisions for further support of the council on industrial relations: Therefore be it

Resolved, That the Electrical Guild of North America assume joint and equal support with the I. B. E. W. for the continued maintenance of the council on industrial relations

On September 22, 1930, the I. B. E. W. recognized the action indicated by the above resolution and gave its acquiescence in the following language:

"The council (international executive council, I. B. E. W.) convened in regular semiannual session at international headquarters, 1200 Fifteenth Street NW., 9 a. m., September 22, 1930.

"A communication from the Electrical Guild of North America, concerning the status of the national council on industrial relations for the electrical construction industry, received, considered and by motion duly made, seconded and carried, the contents of the communication were approved and the communication filed for permanent record."

In June 1932, the Electrical Guild of North America was liquidated.

Some time later, the conference club assumed the employer sponsorship of the council and continued its support until July 1939, when it voluntarily relinquished it to the I. B. E. W. employers' section of the National Electrical Contractors Association which assumed sponsorship in accordance with a resolution adopted by the labor relations committee of that association at its meeting at Hot Springs, Va., in July 1939, reading as follows:

"Whereas the present sponsorship of the employer members of the Council on Industrial Relations for the Electrical Construction Industry of the United States and Canada is representative of only a small number of employees of the industry; and

"Whereas it appears that the present sponsorship of the employer members of the council being aware of this condition are of the opinion that this sponsorship should be assumed by a more representative group: Therefore be it

Resolved, That the labor relations committee of N. E. C. A., in order to give effect to its fourth objective as set forth in its bylaws, shall at once proceed to assume said sponsorship, including all obligations and privileges attached thereto."

COUNCIL MEMBERS

Who have served since its first meeting, April 20, 1920, to and including its meeting on February 20 and 21, 1947:

FOR THE ELECTRICAL CONTRACTORS

Blumenthal, S. C.	*Hall, Joseph P.	*Morton, W. H.
Brueckmann, A. C.	Hixon, Alfred J.	*Peet, W. Creighton
Busby, John H.	Hooley, John W.	Pierce, Charles D.
Carlson, E. C.	Johnson, M. H.	Pierce, J. Norman
Clark, Willis W.	Kelly, John A.	Richardson, J. M.
Coggeshall, Allan	Livingston, J. G.	Rosenberg, T. L.
*Cole, John A.	Mayer, L. E.	Ryan, J. P.
Comstock, L. K.	McChesney, Robert W.	Sanborn, G. M.
Cooper, F. W.	McCleary, Ernest	*Stearnes, Robley S.
Foley, Howard P.	McIntyre, K. A.	*Watters, J. M.

FOR THE I. B. E. W.

Bieretz, Edward	Kelly, W. F.	*Reed, Charles L.
Broach, Howell H.	*Kloter, Edward F.	Riley, Frank C.
Bugniazet, G. M.	*Meade, James S.	Shaffer, William F.
*Ford, Charles	*McNulty, F. J.	Shord, William G.
*Gordon, M. P.	*Noonan, J. P.	Steinmüller, W. F.
Hedges, Marion H.	Nothnagle, Edward	Tracy, D. W.
Hogan, W. A.	*O'Leary, B. A.	Walsh, William J.
Kelly, F. L.	Ratcliff, M. L.	*Whitford, George W.

*Deceased.

The CHAIRMAN. Senator Pepper.

Senator PEPPER. No questions.

The CHAIRMAN. Senator Neely.

Senator NEELY. Does the custom that you have spoken of by virtue of which the employer decides whom the labor union will admit to its membership list still prevail?

Mr. GEARY. That still prevails, that a joint committee of employers and employees handle the apprenticeship problem. If a boy wants to be an apprentice, wants to become an apprentice, wants to learn this trade, he applies to that committee. That committee decides whether or not he has any adaptability, based upon his education and

his age and so forth, and if they believe he has, then they give him a chance, and he is assigned to work for some employer that has the need of him, and he works at a rate which compares to about the common laborer rate for his first year, and gradually his rate is increased; that is, the wage rate is the rate provided for in the agreement.

After he has completed his training course to the satisfaction of the joint committee, he is then accepted into membership in the union.

Senator NEELY. Are the recommendations of your companies made to the union by word of mouth or in writing?

Mr. GEARY. In most localities, particularly large localities, they have a regular form for that purpose. In smaller localities, it must be just by a word-of-mouth proposition.

Senator NEELY. Is the new membership of the union restricted to the recommendations that are made by the employer in these cases?

Mr. GEARY. The new applicants for training as apprentices, but not if somebody comes along and says, "I am a journeyman electrician. I have had such and such experience." He would go directly to the union under ordinary conditions. However, the manpower shortage has been such with us during the past 5 years, I will say that our contractors have had to employ all comers. Anybody who applied and who, in the opinion of the employers, could do any electrical work that they had a need of, he was hired, and he has gone right ahead working. We do not know whether he is a member of the union or not.

Senator NEELY. So far as you know, in the majority of cases the recommendation has been accepted, and it is the only eligibility requirement for membership?

Mr. GEARY. No, I could not say that, because the union has equal representation on the apprenticeship committee, so that their representation passes on it the same as our people. It is a joint committee.

Senator NEELY. Is the form or report that is made out by this apprenticeship committee signed by a representative of the union, or by a representative of your company?

Mr. GEARY. Signed by somebody representing the union and somebody representing the employer, both of them jointly.

Senator NEELY. That is all.

The CHAIRMAN. Senator Taft.

Senator TAFT. Mr. Geary, your association is the National Electrical Contractors Association, and you deal with the International Brotherhood of Electrical Workers.

Mr. GEARY. Yes, sir.

Senator TAFT. Are those the parties involved in the case of *Allen Bradley Company v. Local No. 3*, Supreme Court of the United States in 325 U. S. 797?

Mr. GEARY. Yes, that involves a local union of the IBEW, and a local group of employers affiliated with our national association, in part.

Senator TAFT. May I read an extract from Mr. Justice Black's opinion:

The union's consistent aim for many years has been to expand its membership, to obtain shorter hours and increased wages, and to enlarge employment opportunities for its members. To achieve that latter goal—

that is to make more work for its own members—

the union realized that local manufacturers, employers of the local members, must have the widest possible outlets for their product. The union therefore waged aggressive campaigns to obtain closed-shop agreements with all local electrical equipment manufacturers and contractors. Using conventional labor union methods, such as strikes and boycotts, it gradually obtained more and more closed-shop agreements in the New York City area. Under these agreements contractors—

that is, your members—

were obligated to purchase equipment from none but local manufacturers who also had closed-shop agreements with Local No. 3: manufacturers obligated themselves to confine their New York City sales to contractors, employing the local's members. In the course of time this type of individual employer-employee agreement expanded into industry-wide understandings, looking not merely to terms and conditions of employment, but also to price and market control. Agencies were set up composed of representatives of all three groups—

that is, contractors, manufacturers and unions—

to boycott recalcitrant local contractors and manufacturers and to bar from the area equipment manufactured outside its boundaries. The combination among the three groups, union, contractors and manufacturers, became highly successful from the standpoint of all of them. The business of New York City manufacturers had a phenomenal growth, thereby multiplying the jobs available for the local's members. Wages went up, hours were shortened, and the New York electrical equipment prices soared, to the decided financial profit of local contractors, and manufacturers. The success is illustrated by the fact that some New York City manufacturers sold their goods in the protected city markets at one price and sold identical goods outside of New York at the far lower price.

All of this took place, as the circuit court of appeals declared "through the stifling competition" and because three groups in combination as "copartners" achieved "a complete monopoly which they used to boycott the equipment manufactured by the plaintiffs."

Interstate sale of various types of electrical equipment has, by this powerful combination, been wholly suppressed.

Aren't, perhaps, the good terms between your association and the I. B. E. W. rising out of this fact that you have been associated in this kind of association and joint operation?

MR. GEARY. I would not say so, Senator. There may be a number of things which go on in one particular locality, particularly one as important and self-sufficient, shall we say, as the city of New York, that are beyond our ability to control.

We are a trade association. It is entirely a voluntary proposition. We act at the national level as representatives or agents of these various chapters. They function with complete autonomy, except for certain specific things that we do direct them to do. But we cannot, and do not, undertake to make them agents of ours, and we cannot control all of their actions, either.

I would not have the temerity to sit here and say that in no locality is there any practice that we do not approve of. I would say that our joint efforts at the national level have had the effect of removing and clearing up a great many of those things.

Senator TAFT. That is all, Mr. Chairman.

The CHAIRMAN. Senator Donnell.

Senator DONNELL. No questions.

The CHAIRMAN. Senator Humphrey.

Senator HUMPHREY. I have no questions.

The CHAIRMAN. Senator Murray.

Senator MURRAY. No questions.

The CHAIRMAN. Thank you very much, Mr. Geary. We appreciate your statements.

Mr. GEARY. Thank you.

The CHAIRMAN. Is Mr. Gray present?

Mr. Gray, for the record will you state your name, your address, and what you represent?

STATEMENT OF RICHARD J. GRAY, PRESIDENT, BUILDING AND CONSTRUCTION TRADES DEPARTMENT, AMERICAN FEDERATION OF LABOR, WASHINGTON, D. C.

Mr. GRAY. My name is Richard J. Gray, and I am president of the building- and construction-trades department of the American Federation of Labor, with offices in the American Federation of Labor Building at Massachusetts Avenue and Ninth Street.

Senator DONNELL. Does Mr. Gray have a prepared statement, Mr. Chairman?

Mr. GRAY. No; I do not have a prepared statement. I was not sure if I was going on, but I do have some memoranda here. I have just one copy which I will be glad to leave with the committee.

The CHAIRMAN. This is the gentleman whom President Green asked to have called to the stand, and he is called on the Democratic time.

Mr. GRAY. I would like to touch on the following subjects which are parts of the Taft-Hartley law provisions, and which vitally affect the building and construction trades workers of the country, particularly those who are members of the American Federation of Labor.

There are in excess of 2,000,000 building-trades workers affiliated in membership with the Building and Construction Trades Department organization. There are some 19 international unions which devote their time and efforts to the building industry, affiliated as constituent parts of the building and construction industry.

We all feel that the Taft-Hartley Act has created great confusion among the building and constructions trades organization. We felt that it was our duty as officers to advise our people, once that law was enacted and placed on the statute books that whether we liked it or not, every honest effort should be made to comply with it.

All of the officers connected with our affiliated international unions have signed the Communist affidavit provision. However, we do not wish to have that action accepted as concurring in that as being a good feature of the law.

Many of our unions, so far back as 30 years, had provisions in their constitutions which prohibited a member of the Communist Party from accepting and holding membership in those international unions.

I would like to read from the particular union in which I hold membership, the constitution and rules, the Order of Bricklayers, Masons and Plasterers International Union.

On page 19:

No member of this union shall become a member of or aid or abet any organization which advocates communism or which advocates the overthrow of the American Government by force, or which advocates the undermining or destruction of American trade union movement, or of any organization advocating the so-called one big union, or of the Industrial Workers of the World, or of any organization having objects and purposes similar to the objects of the organizations herein specified; and any member violating this section shall, upon conviction, be expelled.

Senator NEELY. Is that rule now in effect?

Mr. GRAY. What is that, Senator?

Senator NEELY. Is that rule in effect at the present time?

Mr. GRAY. This is our latest constitution, approved by our convention, last September, in San Francisco.

Senator DONNELL. May I ask him, Mr. Chairman, when was that provision that he just read first adopted?

Mr. GRAY. I think it was sometime around 1917 or 1919. I became an officer of the local union in 1922, and it was in prior to that.

Senator DONNELL. All right.

The CHAIRMAN. May I ask a similar question to that, Mr. Gray? Just on reading it the way that it appears in your constitution, it sounds as if it were definitely put in the constitution in answer to the claims of the I. W. W., and what they were trying to do in the labor movement in America. It is your union's answer to the I. W. W. movement, is it not?

Mr. GRAY. You are correct, Senator.

Senator NEELY. May I ask another question Senator?

What other unions, to your knowledge, have in their constitutions provisions similar to the one you have just read?

Mr. GRAY. Well, I could not enumerate them all, but there are at least nine to my knowledge, and there are more. Now, for instance, I was just informed no later than this morning that the boilermakers have such a provision. They expelled 11 men in the State of Washington, but there is an injunction which was issued by the courts of that State restraining them from expelling those men.

Now, we ran into a similar experience some years ago in the city of New York. A man was a member of our union, in fact, he was a candidate on the Communist ticket for district attorney, and we expelled him. We had to reinstate him.

Senator NEELY. Will you name the other unions which, to your knowledge, have similar provisions in their constitutions?

Mr. GRAY. I know many of the carpenters' local unions have such provisions, and I am pretty sure that their international union does. I know that the sheet metal workers have such provisions in their constitution.

Senator HUMPHREY. The upholsterers do, do they not?

Mr. GRAY. You see, Mr. Senator, I only confine myself to the building trades, and they are not a building trades affiliate.

Senator HUMPHREY. I remember a trial they had in our community where they expelled a business agent.

Mr. GRAY. I would be glad to get a definite list and furnish it to the committee, but I know by far the greater majority of those organizations affiliated with the building and construction trades department do have such provisions.

Senator NEELY. The United Mine Workers of America used to be members of the Federation of Labor?

Mr. GRAY. Yes, but not part of the building trades department.

Senator NEELY. Does not the organization known as the United Mine Workers of America have a provision similar to that which you have read and also a provision prohibiting a member of the chamber of commerce from becoming a member? [Laughter.]

Mr. GRAY. I have been informed that they have. I have not seen it.

I wish to state that that has caused great resentment. We, of

organized labor, who have resented and fought the Communists with every means within our power, do not feel there is any need for us to come and publicly declare that we are not Communists. We would rather let our record speak for itself; we would rather rest on our record of what we have done in the past, and what we can prove that we have done in the past.

There is another question that I have heard discussed in my attendance at some of these hearings. I heard Mr. Green asked a question relative to compelling a labor organization to bargain, as well as the contractors or the employers, to have to bargain.

Now, there is a provision in this constitution, "Agreements and arbitration"—and incidentally, that has been in there over 45 years, as long as I have been a member.

Desiring to keep pace with the progress of the times, and after profiting by many years of experience, and believing that almost all labor troubles can be settled and rectified through the channels of reason and conciliation without having recourse to strikes, the international union ordains that all subordinate unions under its jurisdiction must embody in their constitution or bylaws a general law providing for a form of agreement with employers and the establishment of a joint committee of arbitration for the purpose of establishing a means whereby all questions in dispute between themselves and employers can be peaceably settled.

SENATOR NEELY. How long did you say that had been in effect?

MR. GRAY. Over 45 years, to my knowledge ever since I have been a member, and I have been a member 45 years.

SENATOR NEELY. Has the Taft-Hartley Act in any manner enabled your union better to protect itself against communism?

MR. GRAY. No, not a bit. But I will tell you what has happened in this instance relative to arbitration. After consulting with lawyers, and after interviewing some of the men who helped draft, as I understand it, the Taft-Hartley Act, we find they were confused on many of these subjects as to what our rights were under the law.

I never found such a wide variance of opinion among attorneys as to what were the rights of labor under the law. For instance, Mr. William Leahy, attorney for the building and construction trades department, Mr. Martin Durkin, attorney for the plumbers' union, and myself, and Mr. Durkin sought an interview with former Congressman Hartley and former Senator Ball, and at that time it was shortly after the National Labor Relations Board had denied the request of the bricklayers' union for a separate bargaining agency, bargaining rights in two steel mills in Ohio; also the plumbers' union had been denied bargaining rights as a craft unit in the Monsanto Chemical case in southern Illinois, and I asked—I quoted that particular section of the law to Mr. Hartley—Mr. Shroyer was present at the time, and I said: "Does this mean what it says or the way it reads?" He said, "So far as I am concerned, and the House is concerned, it means just what it says."

Senator Ball said, "Oh, no, you are mistaken on that. We watered that down in committee and give the Board broad discretionary powers."

So that leaves us out on a limb. We do not know how far we can go.

SENATOR NEELY. You think that if the authors or champions of the law do not know its meaning, it will probably be impossible for you and your membership to understand it and obey it?

MR. GRAY. How could we, Senator?

Now, as a result of that, and as the result of the form of agreement we had always written with these arbitration clauses, many of our unions felt that it might be dangerous that we might subject ourselves to damage suits in continuing the old form of agreement, so we decided that we would write the simplest agreement we could, no arbitration clause, nothing else, just wages, hours, and working conditions. Period. And that did not lead to the peaceful settlement of industrial strife, because the machinery that was formerly in there for the peaceful adjustment, and which had successfully accomplished it many times, was taken out of those contracts.

Now, that was not all on the part of the unions. Many employers objected to renewing the old form of agreement.

Mr. Denham and myself on three different occasions appeared on a platform together, before an employers' association, addressed those conventions and submitted to a question-and-answer period.

I was rather amazed to hear Mr. Denham make the statement when we asked him, when a question was asked, To what extent does the Taft-Hartley law apply to this construction industry? On one occasion—I remember distinctly—he said, "Well, you cannot except any of it, possibly except if a man went out in the woods and built a log cabin that he cut right out of those woods. Everything else would come under the Taft-Hartley Act."

Senator TAFT. May I say, Mr. Gray, that, of course, was a dispute all of which related to the definition of "interstate commerce."

Mr. GRAY. That is correct.

Senator TAFT. Which was exactly the same in the Wagner Act, and has been for many years, and raised only the same questions that had been raised under the Wagner Act.

Mr. GRAY. However, I do not think that the administrators of the act interpreted it in that manner, under the Wagner Act.

Senator TAFT. I agree. I think Mr. Denham went way beyond what I think would be right in extending this idea of interstate commerce or business affecting commerce. I think it went much too far. I agree, but I only want to point out that the Taft-Hartley law had no change in the definition of "interstate commerce" contained in the Wagner Act.

Mr. GRAY. Other than the powers delegated to the Chief Counsel.

Senator NEELY. You say you were amazed at some of the statements that Mr. Denham, the General Counsel for the Labor Board, made on the occasions to which you have referred?

Mr. GRAY. Oh, yes.

Senator NEELY. Some of us on this side of the table were not only amazed, we were shocked to learn of this man's unlimited power and that from its use or abuse in some important matters there is no appeal.

Senator MORSE. We said, "aghast"; that was the word.

Senator NEELY. As the able Senator's word "aghast" is stronger than my word "shocked" I warmly welcome it and proclaim that it accurately expresses my reaction to Mr. Denham's testimony.

Senator HUMPHREY. What has been your feeling, Mr. Gray, about the powers of the General Counsel under the law?

Mr. GRAY. I think, from listening to some of these hearings, I am convinced that they were biased. These hearings were the first time I

had learned that Mr. Denham had contributed anything toward the construction of the act.

As an instance of that, last summer, at a convention of the Builders Association of the State of New York held at Lake Placid, Mr. Denham and I were on the platform together again, and we made our addresses, and were subject to questions, and one of the questions I asked Mr. Denham was if he agreed with me that the secondary boycott provisions of the Taft-Hartley Act could be used to compel one union to destroy another union and even destroy itself. I cited the printers' case in Chicago, and I cited a building and construction work case up at Rumford, Maine, of the Rumford Paper Co., and he tried to evade it, and finally I pinned him down, and then he said, "I did not come up here to discuss the merits of the act. I am merely the administrator. Congress gave me the act."

But now I find he had a hand in helping Congress give him the act that he was chosen as administrator of.

Senator HUMPHREY. And you also found out that, under his broad powers he could interpret the act even beyond what has been considered to be a fair interpretation of the act?

Mr. GRAY. That has been our experience.

Senator HUMPHREY. Would you say that possibly the provision in the Taft-Hartley Act pertaining to the establishment of the General Counsel should be eliminated, or should it be continued?

Mr. GRAY. I claim it should be eliminated, and it should be subject to the authority of any board which is set up to administer the act, and under their orders, so that we could have our day in court.

Now, let me illustrate another pointed case. The Government has let a contract for what is known as the Bull Shoals Dam. The contract time is estimated at 40 months. It was let as a joint venture to about, if I remember correctly, nine contractors, one of whom was the Brown & Root Co., of Texas.

They are the operating contractors. They have always operated nonunion. We do not like that, but that is their privilege. If they wanted to operate that way, that is their privilege. But their eight associates—I may be mistaken, it may be seven associates, or eight, or nine. It is a joint venture, not as a corporate entity, as a joint venture, their associates are operating on a nonunion basis.

The contract was awarded in May 1947; work started in June 1947.

We started in to unionize the job, within our rights under the Taft-Hartley law. To do that it was necessary for us to interview workmen on the job—not on the job, we would not be permitted to do that, but away from the job, and get them to sign pledge cards as to whether or not they would be willing if we sought an election to be certified as the bargaining agent, to join the unions and recognize us as the bargaining agent. That was only progressing for a little while, and some 30 men who had signed the pledge cards were discharged. The local unions at Fort Smith, Ark., Little Rock, Ark., and Springfield, Mo., put in a complaint of an unfair labor practice to Mr. Denham. He was supposed to have made an investigation.

However, the lapse of time was such that those men who were discharged, and there was no other employment in that neighborhood for them, they had to leave the locality; there were only some 15 that we could get to make affidavits.

Mr. Denham arbitrarily took the position he did not have to proceed on that complaint; that the 15 affidavits were not sufficient, and in his judgment were not a sound basis for starting action on our complaints.

Senator HUMPHREY. However, had there been an unfair labor practice of the mandatory provisions of the Taft-Hartley Act pertaining to the union, it would have been a priority matter, would it not?

Mr. GRAY. Yes, I have some very clear provisions on that. But anyway we applied for that, for the right to be certified, for an election to be held, and we were certified on March 4.

The Board did not get around to holding the election, or Mr. Denham's office rather, until July 28. There was no question; we won the election.

Then, we do not get certified until August 18. After we have been certified, that was the first time they had even talked to us, the company came in and sat down and went through the motions of collective bargaining. I do not have it with me, but I have a copy of the bargaining contract that they submitted, and I will be glad to furnish it to the committee if they desire.

But one of the provisions in that contract was that this joint council of the building trades would furnish them with a bond in the amount of \$100,000, guarantee a bond for liquidated damages, guaranteeing to reimburse the company on demand at the rate of \$25,000 per day for any day there was any stoppage or slow-down of work, and that surety had to be furnished by some surety company which was on the approved list of the United States Treasury Department.

We made inquiries and found it was absolutely impossible to get such a bond from such a surety company. So then, we contended—this was in August, right after the certification. We contended that they were not bargaining in good faith, and we did file a charge with Mr. Denham that they were refusing to bargain in good faith, and a hearing was finally held on that charge on January 18 of this year.

Now, the point I am raising is that every one of those associated contractors in this venture employ nothing but union men on their own individual jobs, but they have joined with this nonunion concern which is going to perform this nonunion work and by the time we get a decision from this Board, if they follow the regular procedure, the job will be completed and our unions will be like the fellow who went into court and got an idle judgment. There is nothing we can do about it. And still the same contractors are free to start in on another job as another joint venture, and we have got to go through that same process again with no hope of any additional relief.

Now, the building industry is unique as an industry. I think it differs from any other industry in this country. We have what you might call a Nation-wide pool of building-trades mechanics. Our members may work for 10 contractors, the great majority of them, in 1 year, and to give an example of that, perhaps, the best thing I can offer is that during the early days of the defense program in the area of Corpus Christi, up until that time it would normally furnish irregular employment for about 400 to 500 building-trades mechanics of all crafts.

One of the Navy's first defense jobs was down there and they needed approximately 15,000 men, so I am told. There was no other agency in America outside the building and construction trades

department of the American Federation of Labor equipped to service that job. The United States Employment Service could not even do it, and we manned that job, completed it 6 weeks ahead of the Navy's own schedule, and it never cost the taxpayers of the United States one penny for transportation for men into the job or away from it when it was completed.

I can cite any number of jobs of that character. But, however, leading up to the Taft-Hartley law, and I say this with all due—

Senator HUMPHREY. By the way, we never heard about that; I never saw any write-ups about that, but I heard a little bit about your initiation fees.

Mr. GRAY. Oh, yes; there is no question about that. That is quite in line with just the point I was going to touch on, Senator. Even during the prosecution of the war there was an insidious system of propaganda against labor unions in this country, and it was fed to my own children when they were in the South Pacific, because I got letters from them asking, "What are the labor unions doing, Dad?"

You may recall one about a strike of seamen alleged to have failed to unload or refused to unload needed equipment for the marines at Guadalcanal. That was broadcast in headlines in the papers. Admiral Halsey came out with a denial, but that was very small. There is much of that stuff.

I can cite another instance. Just as we were getting ready to step up the tempo of construction on the Pacific coast in the Japanese war, Admiral Morrell, a man for whom I have the greatest respect, and who was Chief of the Bureau of Yards and Docks—I was acting then in the same position I am now—said, "Dick, we are going to do about \$400,000,000 worth of work in five different areas on the Pacific coast. Are you going to be able to furnish the men?"

I said, "I do not know, Admiral. Give me 24 hours and I will find out."

I communicated with all of the building-trades councils out there, and I found out that within a radius of 500 miles we could service the job, and I made a suggestion to him. I said: "I don't care what kind of an order the Navy draws up, sends out there. You get five different area commandants, and one of them will put a different interpretation, and then another."

So, I suggested, "You let us call a meeting at some point out there, and we will acquaint both your commandants and our labor officers as to what our understanding is, and we will probably avoid confusion." He said, "I cannot go out there, but I will send Captain Perry with you."

We met in Los Angeles, and you know, that meeting only lasted 45 minutes, and that \$400,000,000 worth of work was constructed without one complaint from the Navy to us or one complaint from our people to the Navy. It just goes to show that where common sense and a little foresight is used, you do not need any legislative action to curb the real honest American working people in this country.

You might find exceptional cases that we abhor, and we all think are wrong. Take, for instance, the question of furnishing financial statements which are provided for in the Taft-Hartley Act. The particular union I belong to—I have no right to go into the financial affairs of other unions, I have no authority, but I am going to speak for my own—it is my contention right here and now that you cannot

find a bank in the city of Washington or a corporation in this country which furnishes a more comprehensive audit of its financial affairs to its officers and its members than the Bricklayers, Masons, and Plasterers Union, and it has done it since 1914.

Now, we follow out a system as follows: We have conventions every 2 years. The delegates to those conventions are elected by the subordinate unions. The convention convenes the Monday after Labor Day. The delegates must be elected prior to July 15 under the constitutional provision. Their names must be in the secretary's office by August 1.

Then, each one of them, not later than August 15, they are furnished a copy of the officers' report and the financial statement, and they have a full 30 days to study it before they come to that convention and introduce any action they desire.

I do not know of any financial institution which follows that procedure. We hear about the bad unions. There are some that, perhaps, do not do that, but we resent it.

Now, let me point out another feature about this, too, this business of furnishing your financial reports to the Government.

There was a young Catholic priest who was studying out here at Catholic University, at least so he advised me, he was taking a labor-relations course that they were teaching, and when I was general secretary of the bricklayers' union, he came into the office and he said, "I am taking this course. Would you have any objection to showing me through your office and your set-up?" I said, "Absolutely none."

Since 1914 we have carried on a relief system. We have about 2¼ million dollars in reserve funds which are invested only in such securities as are legal for trust funds, trust fund investments under the laws of New York, Massachusetts, and Connecticut; and, incidentally, we went through the depression years without one default on that list in that portfolio, and I showed it to him with respect to what we were paying out at times. We were paying out over a million dollars a year to these old-age members who were over 65 years of age, and not able to accept sustaining employment.

He asked with some feeling, "Mr. Gray, why don't you people get some publicity about that?" And I said, "We do not want it." He said, "Why not?" I said, "Everybody then would apply for this if they were advised of it even though they were not eligible, and if we rejected them, every shyster lawyer in the country who was out and knew we had \$2,000,000 here would hale us into court"—which has happened—"and by God, we would rather pay it to our old-age members than pay it out in legal fees. If we did not go in and defend it, why, we would lose the case by default; and if we did go in we would be involved in expensive litigation, and that is why we do not go into it."

If you want to look up the case, it is *Bannister v. Gray* in the New York County Court. We do not want it.

Senator TAFT. The Secretary of Labor has not given out those statements.

Mr. GRAY. The point I am raising is I do not know whether he has given them out or not, but they can be raised up on one pretext or another; they are subject to the public, and it is not to hide our financial actions that we want to do it, but it is so that we do not attract people to start digging into it and destroying what we have created.

Senator TAFT. Those suits must have been brought by people who thought they had a right to that fund.

Mr. GRAY. You are quite correct, and let me relate an incident. We found some 200 people in the city of New York on the relief roll in 1927. After an investigation we took them off. We found one particular case of a man who had a son who was a lawyer, another son who was a doctor, and two sons working at the trade.

Our fund was not set up for that character, to relieve the responsibilities of children. It was set up to relieve some old indigent member from becoming a public charge when he had no other means of support or no family to support him.

But that gentleman had a son, as a lawyer, who made a test case of it, and incidentally he beat us in the Westchester County court, and in the appellate division. We got a unanimous reversal by the court of appeals in New York State.

We were involved in pretty expensive litigation, but in the interim, between the time the case was argued in the court of appeals, about 6 weeks elapsed, and he got service on me in six more cases. But when the court of appeals decision came down, he never went on with the cases.

If you want any more proof other than that what can happen, I do not know what it is, and that is a matter of record.

Senator TAFT. That was all before the Taft-Hartley law.

Mr. GRAY. I know. But I am citing that as one of our reasons why we are reluctant to broadcast our financial affairs, because it does involve us in trouble, as it did in that case.

Senator HUMPHREY. How has the litigation been since the Taft-Hartley law? I mean, litigation on all union affairs?

Mr. GRAY. Every one of us has had to have a lawyer tied to our coat tails since that time, since that came in.

Senator HUMPHREY. A full-employment program. [Laughter.]

Mr. GRAY. We have got some cases right here, an analysis of cases where injunctions were requested. This is just a step ahead.

These are delays involved in the Taft-Hartley law procedures. This is a study made by the A. F. of L. research department of the length of time involved in processing unfair labor practice cases under the Taft-Hartley Act.

It shows very clearly the delays involved in pre-Board procedures. The study covered all unfair labor practice cases against employers decided during the months of September, November 1948, and all unfair labor practice cases against unions decided under the law.

Time for filing of the charge, cases against unions. To intermediate reports, 79 days; to Board decision, 303 days; cases against employers, 178 days to intermediate report; 635 days to Board decision.

Senator NEELY. Who, in your opinion, has been most responsible for the delays in those cases to which you have referred?

Mr. GRAY. Those cases, most of these unfair labor practices, in fact most of your unfair labor practices, as I have been advised by the lawyers on the law, come under the jurisdiction of the general counsel.

Senator NEELY. Is Mr. Denham?

Mr. GRAY. Mr. Denham.

Senator NEELY. I regret to believe that any labor law he administers will end in disaster for the workers. In my opinion, labor's hatred of the Taft-Hartley Act has been intensified by the offensive manner in which Mr. Denham has enforced it. Senator Donnell, I understood you to say while interrogating Mr. Green: "I would like for somebody to tell me where there is anything in the Taft-Hartley law that makes any requirement in regard to these various matters that is not made in the Wagner Act." I understood you to say something like that, and I want to give you some examples—

Senator DONNELL. Requirement to the same effect?

Senator NEELY. I read from the law as it appears in a pamphlet supplied by the Government Printing Office, page 11:

No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, no petition under section 9 (e) (1) shall be entertained, and no complaint shall be issued—

that is, no complaint in favor of any labor organization—

pursuant to a charge made by a labor organization under subsection (b) of section 10, unless such labor organization and any national or international labor organization of which such labor organization is an affiliate or constituent unit (A) shall have prior thereto filed with the Secretary of Labor copies of its constitution and bylaws and a report, in such form as the Secretary may prescribe, showing—

(1) The name of such labor organization and the address of its principal place of business;

(2) The names, titles, and compensation and allowances of its three principal officers and of any of its other officers or agents whose aggregate compensation and allowances for the preceding year exceeded \$5,000, and the amount of the compensation and allowances paid to each such officer or agent during such year;

(3) The manner in which the officers and agents referred to in clause (2) were elected, appointed, or otherwise selected;

(4) The initiation fee or fees which new members are required to pay on becoming members of such labor organizations;

(5) The regular dues or fees which members are required to pay in order to remain members in good standing of such labor organization;

(6) A detailed statement of, or reference to, provisions of its constitution and bylaws showing the procedure followed with respect to, (a) qualification for or restrictions on membership, (b) election of officers and stewards, (c) calling of regular and special meetings, (d) levying of assessments, (e) imposition and fines, (f) authorization for bargaining demands, (g) ratification of contract terms, (h) authorization for strikes, (i) authorization for disbursement of union funds, (j) audit of union financial transactions, (k) participation in insurance or other benefit plans, and (l) expulsion of members and the grounds therefor; and (B) can show that prior thereto it has—

(1) Filed with the Secretary of Labor, in such form as the Secretary may prescribe, a report showing all of (a) its receipts of any kind and the sources of such receipts, (b) its total assets and liabilities as of the end of its last fiscal year, (c) the disbursements made by it during such fiscal year, including the purposes for which made; and

(2) Furnished to all of the members of such labor organization copies of the financial report required by paragraph (1) hereof to be filed with the Secretary of Labor.

(g) It shall be the obligation of all labor organizations—

and so on and so forth.

I invite the committee's attention to the fact that not one of the foregoing burdensome requirements of the Taft-Hartley law is to be found in the Wagner Act. Let me read what a great labor leader has said about these requirements, and also about Mr. Denham.

"After you have filed the affidavit," the act says:

No petition will be received and acted upon affirmatively by the Board unless it has been filed with the Secretary of Labor in such form as the Secretary may provide—

showing all these things that I have just read.

The labor official who made these remarks—and whom I shall later identify—adds:

The filing of your constitution, the filing of your financial report that you make to your members, the filing of your auditing report isn't sufficient for the purpose of the act, but the information must be furnished in the manner prescribed in the act. And I assert without qualification that there is not an organization that can make that report in a manner that it can feel assured will be satisfying to the labor-hating, labor-baiting general counsel of the National Labor Relations Board, who has been hired to persecute and prosecute your unions and make the life of your union and its members more difficult.

Oh, someone may say, "I have talked to Mr. Denham." Yes, I know a number of gentlemen who have talked to Mr. Denham, and he has said that (a), (b), and (c) won't be necessary. That is all right for you gentlemen who have talked with Mr. Denham and convinced him of the purity of your motives and the fact that you will vote right on occasion. But how about some of the rest of us who haven't talked to Mr. Denham and who don't propose to talk to Mr. Denham privately? Do you think Mr. Denham will give us that consideration or will Mr. Denham, with the great powers vested in him by this act, continuously say to a few gentlemen "The reports filed by your union are not satisfactory."

Suppose he deems them satisfactory only while we are good, in his estimation, and when anything happens that an organization follows a policy not to his liking will he put his research workers and young lawyers to work on these filed accounts and dig up the discrepancies?—

and so on.

Do you not agree with that appraisal of Robert Denham, the general counsel for the Labor Board, who came here like a little Hitler and enthusiastically told us at great length of his unlimited exercise of his absolute and unreviewable authority under the Taft-Hartley law?

MR. GRAY. I will state, Senator, there has never been any personal feeling between Mr. Denham and myself. We have always kept our relationship on a plane free and clear from anything developing about the Taft-Hartley Act. I have differed as to his interpretation of this act and his interpretation of what constitutes interstate commerce, and we have been on many things, as far apart as the poles.

SENATOR DONNELL. Mr. Gray, I would like to ask you a question. Have you ever had any special trouble with Mr. Denham over filing these things, such as names, titles, and compensation of officers?

MR. GRAY. That question has never arisen, because right after the act was passed—

SENATOR DONNELL. I just want to get the fact first.

MR. GRAY. We complied with everything in the act.

SENATOR DONNELL. You complied with everything—that is, all this great mass that Senator Neely read here so dramatically. You had no trouble complying?

MR. GRAY. No.

SENATOR DONNELL. You never had any trouble with Mr. Denham?

MR. GRAY. We had no difficulty. We complied and furnished our financial statements.

SENATOR DONNELL. Most of it is purely a matter of mathematics, names, titles, dates, and things of that kind; isn't that right?

Senator TAFT. Do you know of any union which has ever been turned down on the ground that it failed to comply with this section?

Mr. GRAY. I have no knowledge of it.

Senator TAFT. Mr. Denham accepts the certificate of the Secretary of Labor stating that the statement has been filed with him. There is not even a check made.

Mr. GRAY. Some unions didn't file and were denied the rights of the Board.

Senator TAFT. Didn't file at all.

Mr. GRAY. That is right.

Senator DONNELL. You and Mr. Denham got along, did you not?

Mr. GRAY. On a personal plane, but as far as interpreting the law: no.

Senator DONNELL. I understand that. As regards what constitutes interstate commerce and things of that character, you have had a difference of opinion, but as regards this mass of material read by Senator Denham. [Laughter.]

Rather, Senator Neely, the material he put in about 94 percent of this page 11 from which he read, so far as that material is concerned, you have never had any trouble with Mr. Denham, have you, and have never heard of anybody else having trouble?

Mr. GRAY. I have not heard of anybody having trouble.

Senator DONNELL. And you haven't had any trouble?

Mr. GRAY. No.

Senator NEELY. I can't yield further unless the time is charged to the Republican side.

Senator DONNELL. Those few minutes may be so charged particularly where I called you Mr. Denham. That is worth a charge of 5 minutes.

Senator NEELY. And it may require 5 years to live it down.

I now identify the author of the excerpt I read.

He is President John L. Lewis, of the United Mine Workers of America. He delivered that address before the convention of the American Federation of Labor that was held in San Francisco, Calif., on the 14th of October 1947.

Senator HUMPHREY. Mr. Chairman, I have been very much interested in our discussions in regard to Mr. Denham, and I have a reasonable degree of concurrence with the evaluation and judgments made by our good colleague, the Senator from West Virginia, but I would like to make the observation, without being too critical of Mr. Denham as an individual.

He has taken an oath to uphold the law of the land. He has taken an oath which is binding upon him both as an individual and as a public servant, and while undoubtedly he has his prejudices and biases, and they will be well explained and well explored in these hearings, I would say that under the provisions of the Taft-Hartley Act, those provisions which are explicit and those provisions which are implicit, which even the authors are unable to detect as to their meaning, I would say that the Angel Gabriel could well be accused of being a bit of an autocrat under the provisions of this act because he is not a free agent, he is an officer of the Government.

Senator DONNELL. Is the Angel Gabriel a member of the closed-shop union of lawyers?

Senator HUMPHREY. Yes; and probably a member of the upper Chamber, having fallen from grace only for a short time.

I think we need to view Mr. Denham not as a private individual, but also as a public servant. When a man is obligated to perform a job and with it he takes an oath of office, an obligation for responsibility, and that oath requires the fulfillment of the procedures of a particular statute, I say that he is best to be judged not as man but as to what he has to administer.

From what I have heard of the criticism—and I have heard many criticisms of Mr. Denham from both sides of the fence—I have yet to find anyone who told Mr. Denham he is not administering the act. He is administering the act, which placed in him great responsibility, an act which by its terms and purposes give him almost dictatorial powers. I think that is the No. 1 abuse of this act, and any piece of legislation which will vest in one individual the tremendous powers that one man has as in the general counsel's position is an act which, on its face, stands indicted at the bar of what I would call justice, since we have brought the word "justice" up so many times in these hearings.

I admire and love my good friend, Senator Neely, and I think his judgment is one that has been measured and is a considered opinion, but I would like to come to the defense of a personality, Mr. Denham, who has been led into the paths of sin by an iniquitous pronouncement known as the Taft-Hartley Act.

Senator NEELY. Senator Humphrey and members of the committee, let me make it crystal clear that all I have said in criticism of Robert Denham is of Robert Denham, the general counsel of the National Labor Relations Board. I cast no aspersions of any kind or character upon him in his private capacity as a citizen of the Republic.

Senator TAFT. Mr. Chairman, may I say a word?

I would like to say the evidence has shown no bias whatever on the part of Mr. Denham. He has administered the act as he thinks the act was intended to be administered. I do not agree with him in everything, but nobody agrees with everybody, and I think the attacks on him have gone further—I am glad Senator Neely has, in effect, withdrawn what I thought was a personal attack on the good faith and fairness of Mr. Denham.

I might say further of Mr. Denham that if there is any criticism to be made of his appointment, he was appointed by President Truman without any consultation with the authors of the act.

Senator NEELY. That doesn't excuse him. I don't care if a hundred Democratic Presidents appointed him, he is not fit for the job. And neither the Taft-Hartley law nor any other law dealing with labor relations will ever be satisfactory to the union men and women, the working people of the land, so long as the enforcement of the law is entrusted to Robert Denham.

Senator DONNELL. Mr. Chairman, I would like to say, as an oldtime friend of Mr. Denham, that I think I would be remiss in my duty if I did not say a word at this time.

I have known Mr. Denham for over 40 years. I am very much pleased to learn that Senator Neely undertakes to cast no aspersions on him personally.

In my judgment, knowing Mr. Denham, knowing his disposition and knowing his efforts and his ability, he has endeavored, I think, to comply with the oath to which Senator Humphrey referred. There may be differences of opinion, and I can see room for differences of opinion, too, in what he has done, but I would like to associate myself with those who believe that Mr. Denham has endeavored to the very best of his ability, which I regard to be good, to perform these duties under this act.

Senator MORSE. If the Senator will permit me, I would like to participate in this prayer meeting only to the extent of praying that we will get rid of the powers of the general counsel, leaving Mr. Denham to his own ways with his own Creator.

Senator HUMPHREY. I was of the opinion, Mr. Chairman, that since the Democrats might have some influence with the President—I qualify that—as to these appointments, and I think that we would, I think that our major purpose here and the most difficult job we will have will be removing Mr. Denham from the paths of sin as a consequence of the orders he has had to take, and I want to concur with the distinguished Senator from Oregon in saying that I am much more concerned about the powers which this act vests in Mr. Denham than I am about his own particular operation under them, even though we shall, of course, remind our distinguished leader and President that it is the considered judgment of some members of this committee that better choices could have been made and that it is never too late to realize the error of one's ways.

Senator NEELY. Will Senator Taft yield for a question?

Senator TAFT. Yes.

Senator NEELY. Did I correctly understand you to say that Mr. Denham had gone far beyond what you consider the limits of the law?

Senator TAFT. Mr. Denham's concept of interstate commerce is broader than mine. It was his conception as a trial examiner and has been at all times. I never felt the building-trades unions were covered by the act while engaged in local constructions, although there would be a question raised on some of these big projects.

Mr. GRAY. Take, for instance, a bridge across a river.

Senator TAFT. That was his view long before the act came along, and men don't change their minds, I find.

Senator NEELY. You personally feel he did go too far?

Mr. GRAY. With that viewpoint, he has involved us in endless litigation, which has been very costly.

Senator TAFT. I may be wrong. Mr. Denham may be right. The courts have gone pretty far.

Senator NEELY. May I ask Senator Donnell a question?

Senator DONNELL. Yes.

Senator NEELY. Do you agree with Senator Taft in this matter, or with Mr. Denham? Which view do you think is the proper one as to the interpretation of the Taft-Hartley law?

Senator DONNELL. I think that is a question that is impossible to answer as a general proposition. I think you would have to take up each case. His judgment of whether or not a laundry or hotel may or may not be engaged in interstate commerce would require knowledge of the facts of the particular case.

I would like to say, while I am speaking, that mention was made, and correctly made, by Senator Taft that Mr. Denham was nominated by President Truman without consultation, so far as I know, with any Member of the Senate. I never heard of it.

Senator NEELY. There was no consultation with anyone on this side of the house, so far as I know.

Senator DONNELL. I don't want the record to be silent on this, and then have someone sometime think I sat by silently, not having given everything I knew.

Mr. Denham informed me shortly after he had been approached, I think by some member of the Board—I am not sure who it was; I don't recall whether Mr. Denham had been interviewed by the President up to that point, but Mr. Denham told me of the fact that this member of the Board had spoken to him, and Mr. Denham came over here—I don't remember whether at his suggestion or mine, but I want the record to show—perhaps Senator Taft has forgotten this—

Senator NEELY. I do not want this time charged to the Democratic side.

Senator DONNELL. I also introduced him to Senator Aiken. I did that, and I want that to be shown. That is all I had to do with his appointment. I introduced him and gave my estimate of Mr. Denham.

Mr. GRAY. I want to make it clear, taking the Bull Shoals Dam incident, Mr. Denham apparently has arbitrary powers under the provisions of the Taft-Hartley Act to tell our people with some 15 affidavits—the effect was that they were discharged from employment because they signed pledge cards to join a union and vote for a union shop in a certification election. He admitted to me that they were received, but there were some 60 men, all told, who had scattered to the four winds, and I claim if the Taft-Hartley Act gives that authority to Mr. Denham, who can tell me, “You have no case; we refuse to take action on that,” that that is rather arbitrary power, particularly in view of other conditions on that job. We struck that job.

Senator TAFT. It was an authority which was enjoyed under the Wagner Act, and this delay you complain of took place under the Wagner Act just about as badly.

Under the Wagner Act I presume you could have appealed to the general counsel, to the Board itself, although it would have taken a long time.

Mr. GRAY. The Wagner Act never assumed jurisdiction over the building industry. There never was a case.

Senator TAFT. That was my feeling, and we didn't change the definition in the Taft-Hartley Act.

Mr. GRAY. We are peacefully picketing on that job. One of our pickets had his brains spattered against a company truck. There was no violence on the part of labor. I have seen nothing in the newspapers about that, but if there had been violence on the part of labor, it would have been in the newspapers.

During all this delay that company is importing strikebreakers from Florida and from the Dakotas. The Army engineers have made an investigation on the job and they have found out they have violated the Bacon-Davis Act by hiring men as laborers and then placing them at skilled-trades work, which the Bacon-Davis Act classified at a higher rate, and still those men—that is over 8 weeks ago—still those men have not been reimbursed their proper wage scale.

In addition to that, I understand the Labor Department became interested, since it is a \$41,000,000 job, and for some reason they went out and investigated and found the same condition, only worse than the Army engineers found.

Here is what we are up against. I would like to ask this question. I have asked lawyers and they seem to have a wide disagreement.

In view of the fact that there are eight contractors involved on this job, known as the Ozark Dam Construction Contractors—not a legal entity but as a joint venture—would we be in violation of the Taft-Hartley Act if we struck those other contractors? I contend they are direct employers of our people. I would like to have an expression of opinion on that point.

The CHAIRMAN. I think we had better leave that to the legal staff.

Mr. GRAY. In the meantime the job is finished. But wait until I show the other side of that. If a job is finished and a new contract is awarded in that territory by the Government, under the Bacon-Davis law they have to predetermine the wage rates and they will be the wage rates set up under the conditions I have just described to you, which worked irreparable damage to the people I represent.

Senator MORSE. I would have to have a fee for that legal advice and as a Senator I can't collect a fee.

Mr. GRAY. One prominent attorney told me it was a \$64 question, and that is just another step that the Taft-Hartley law gets us involved in that we were free and clear of and that is why I used the expression that we need an attorney tied to our coattails.

Senator WITHERS. The Senator from Oregon and the Senator from Ohio will give you opinions, but each will be different.

Senator HUMPHREY. Not speaking particularly of the building trades as a unit within the A. F. of L., you made some comment here in reference to the length of time that it took to get cases processed through the National Labor Relations Board. In other words, there was a delay.

Now, as a union man and one who obviously is vitally concerned with the provisions of any labor law, what is your general evaluation as to the length of time under the Wagner Act as compared with the length of time under the Taft-Hartley Act?

Mr. GRAY. As far as the building industry is concerned, we have had no experience in that direction. The Wagner Act didn't take jurisdiction.

Senator HUMPHREY. You have heard them talk about it?

Mr. GRAY. I have heard them talk about it. It is much longer under the Taft-Hartley Act. For what reason I can't explain, but it takes longer.

Senator HUMPHREY. Again I would like to say that is not just because of personalities, because we have the Chairman of the Board, Mr. Herzog, and I am convinced he is as competent and capable a public official in the line of work he is doing as you would possibly find.

Mr. GRAY. He seems to have had considerable experience, more than anybody I know of.

Senator HUMPHREY. But again it is the law. It prescribes this multitude of elections, union shop, certification, decertification, and innumerable details which are part of the things which delay the process

of administrative review and delay the process of final adjudication of disputes.

Mr. GRAY. I predicted to Mr. Denham what would happen under the union-shop election, and we cooperated with him in holding one in Pittsburgh, and it took about 5 months, and that only involved 5 of the 19 crafts.

I want to tell you that it seriously affected production on those jobs in that area because the men were interested in the election. They were talking about it, their minds were not on their work. They knew what the result was going to be. We could almost have predicted the result before it was held. There was no question.

Senator HUMPHREY. Let me give you some pertinent detail which has been brought to my attention. First of all, let us follow the course of time from the unfair labor practice charge to the issuance of complaint and again right down through the hearings. Under the Wagner Act—this is up to 1946, right up to the last day that it operated—charge to complaint took 114 days, while under the Taft-Hartley Act it took 173 days. Complaint to close of the hearing took 30 days under the Wagner Act and 29 days under the Taft-Hartley Act. Close of hearing to intermediate report took 46 days under the Wagner Act and 92 days under the Taft-Hartley Act. The intermediate report to a decision of the Board took 142 days under the Wagner Act and 337 days under the Taft-Hartley Act.

In other words, a total of 332 days was consumed under the Wagner Act to take a charge of an unfair labor practice on through hearing and decision by the National Labor Relations Board. There was a 631-day period for the same kind of complaint to go through under the Taft-Hartley Act.

We have had case after case brought to our attention here where there have been proceedings invoked based upon charges of unfair labor practices, where there have been injunctions issued, where cases have been held in abeyance for months, adding up to almost 2 years on an average under the Taft-Hartley Act and under the Wagner Act less than a year.

That time element is important, is it not?

Mr. GRAY. It is very important to us, particularly in the construction industry, because 9 times out of 10 the job is finished before the case is processed. We are just left to start all over again on another job with no hope of relief as long as this law stays on the books.

Senator HUMPHREY. Do you think the American people like red tape?

Mr. GRAY. We would go further and say—I heard somebody say, "Repeal all the act but the title." I told Mr. Denham at Lake Placid that even the title is a misnomer. The title is Labor-Management Relations Act, and actually, from my point of view, it is a management act.

Senator HUMPHREY. I think the figures I gave you should be noted. These figures were from Chairman Herzog's testimony before the joint committee last year, and I think you also ought to know when an injunction is issued against a union for a secondary boycott they will process that in a week, 6 days, 10 days. In other words, to get the job done, to hold the union in check, it takes only 6 to 10 days.

But to get what we have heard so much about here, equity, or to get an ultimate decision, it takes an average of 2 years.

I will say without fear of successful contradiction that no fair-minded man in this country can justify 2 years' time under a particular law to gain adjudication or to gain a settlement on a dispute which involves both personal and human rights, and property rights and economic rights such as a worker ought to have.

Senator DONNELL. May I ask a question?

Senator HUMPHREY. Yes.

Senator DONNELL. I am puzzled on that. I don't get the basis of your facts. This law has not been in effect for 2 years yet. Perhaps I misunderstood your statement, but I thought you said that information led you to believe that it takes 2 years to get something through under this act. This act didn't go into effect until June 23, 1947, which is several months less than 2 years.

Senator HUMPHREY. This is the amount of time Chairman Herzog gives. He had actual amount of time under the Wagner Act and the amount of time under the proceedings of the Board which they have found necessary to process a complaint.

Senator DONNELL. Then haven't they finished anything?

Senator HUMPHREY. As of November 30, 1948, the Board would have required 44 months to eliminate its backlog of unfair labor practice cases.

Senator DONNELL. That backlog occurred under the Wagner Act.

Senator HUMPHREY. This is under the Taft-Hartley Act.

Senator DONNELL. The backlog?

Senator HUMPHREY. They have a backlog of cases already because of the innumerable details of this act which would require 44 months to eliminate. That is, its backlog.

Senator DONNELL. That is his estimate of what would be required?

Senator HUMPHREY. He is considered to be, I think, a reasonably good authority.

Mr. GRAY. What our people cannot understand now is that those injunctions restraining men are secured so quickly when applied for by an employer, and here is this Bull Shoals case which has been pending since last March when we filed for an election, and there has been no conclusion.

Senator HUMPHREY. There is a very good explanation for that. The objectives and purposes of the Taft-Hartley Act were not to expedite these cases. The record speaks for itself—there has been no expeditious handling of the cases.

You could have a genius at the head of the Board and four little geniuses with him, and they couldn't handle the cases because of the maze of detail which brings the labor disputes of America, not before the table of collective bargaining, but before the National Labor Relations Board by the general counsel as long as he wants to.

Mr. GRAY. I would like to draw to the attention of the committee another incident. Right after the enactment of the act a number of large corporations, as far as their construction work was concerned, changed their policy.

For instance, take the case of the International Paper Co. at Rumford, Maine. That company let out a contract to a union contractor up in Boston. As I understand it, it was a fee contract with a provision similar to that which the Government had in their contracts during the war; namely, a termination clause.

They were doing \$5,000,000 worth of plant extension. They make the excavation, lay the foundation, raise the exterior walls, and put the roof on and then their contract is terminated.

Then the company puts on some three-hundred-odd so-called maintenance and construction employees at much below our wage rates, and brings them in to set the boilers in the power plant, do all the pipe work and electrical work.

The only weapon for us in order to maintain our wage scale and stop such a condition was that prior to the Taft-Hartley Act we would say to the company, "Unless you employ our men until the job is completed, you can just get the other men to do your complete job for you, because we won't do it." If we do that under the Taft-Hartley law, we are guilty of a secondary boycott. We need to be assured of that inside work in order to compensate us for the loss of time and the elements involved in the outside work. There is no relief for us as long as the Taft-Hartley Act stays on the books in its present form.

The CHAIRMAN. Mr. GRAY, may I ask you one question which has to do with the framing of the law? Do you think we have made progress so that the disputes between the vertical union and the craft union are such that we don't have to have a paragraph in the law guaranteeing the rights of craft unions, or do you think we must have a section in the law taking care of that?

Mr. GRAY. Well, as part of the American Federation of Labor, I am not going to suggest offering an amendment, but expressing my own opinion, I feel one should be in there.

Let me explain why, and we are going back to my own experience as a bricklayer. Take a steel mill, for instance, that has 8 or 10 blast furnaces. You don't see a brick outside but there are approximately 6,000,000 bricks contained in the blast furnace proper. When one of those furnaces is operated continuously, as it was during the war, they are ready for a complete relining.

The largest steel mill in this country wouldn't have more than 100 bricklayers as maintenance men. They have to go out on the free market and pick up between two and three hundred bricklayers and then they work them around the clock relining that blast furnace in order to get it into production as quickly as possible.

If we don't have the right, how are we going to protect those men? Suppose some other union got a union-shop agreement for all? That would mean our members would have to belong to two unions in order to work on that temporary work because they are laid off just as soon as that blast furnace is finished. That is what we have gained our experience on, through this migratory group of building trades workers who all their lives have gone from one spot to another, and that is one of the reasons they demand a closed shop, because an employer would have such an advantage in moving from one territory to another and bringing in temporary employees as the market suited his convenience, going union when it was convenient and nonunion at other times.

The CHAIRMAN. I know the problem, but in our practice and in our custom and by various decisions is the problem working itself out better than it was? Is it less tense than it was in 1939, for example?

Mr. GRAY. I think it is much less. If you will recall, in Detroit, I think it was, right in 1945 they were starting to reconvert at that time.

They were laying off CIO production workers, they were extending their plants, and they had let a number of contracts to the A. F. of L. building contractors.

The CIO maintenance and construction workers felt they should be employed on that, that they should not be laid off while we were employed and working overtime.

There was a strike, and finally Dan Tracy, who was an Assistant Secretary of Labor, asked me to come down and talk with Clint Golden, and it took 24 hours to get a committee meeting and get the men restored to work, without the Government exercising any authority. I think that strained relations wore off, and it will adjust itself.

The CHAIRMAN. Contests on the basis of vertical union versus craft union have pretty well stopped; is that right?

Mr. GRAY. That is right. I know of no contest going on.

The CHAIRMAN. So it has become less, and adjustments are being made without any law, and in view of that, do you still think, though, in spite of that progress you have made, that the craft union needs protection in law?

Mr. GRAY. I think so, due to the experience I have cited to you.

The CHAIRMAN. Thank you, Mr. Gray.

Are there any other questions? If not, we thank you very much, Mr. Gray, for coming.

Mr. GRAY. Would the committee like to have this memorandum? I will leave it.

The CHAIRMAN. Do you want it in the record?

Mr. GRAY. Not necessarily.

The CHAIRMAN. I think it would be better for you to pick out the things you want to give and when it comes we will insert it in the record and then we won't have anything you may not want us to have.

Senator MORSE. Mr. Chairman, I wish to make a brief statement on procedure in behalf of the Republican side of the committee. The Republicans have tentatively agreed upon a procedure whereby each one of the minority witnesses hereafter will be assigned for examination purposes to one of the members of the minority.

Any member who seeks to examine a witness to whom he has not been assigned will get permission from the minority member who has charge of the witness.

The CHAIRMAN. Charge of the witness.

Senator MORSE. The Senator who has charge of the examination of the witness.

The CHAIRMAN. That would be Senator Taft. You distributed the time between Senator Taft and Senator Pepper.

Senator MORSE. But we have reached an agreement where each witness is assigned to a member of the minority. Senator Taft has charge of certain witnesses, Senator Donnell has charge of certain witnesses, Senator Aiken and myself likewise.

The CHAIRMAN. Then when the witness comes you will know whose witness it is; is that right?

Senator MORSE. Yes; because we will give you a suggested list that will be flexible so if a man can't be here, somebody else can take him over.

Furthermore, we have made only suggestions as to the time we expect one of our colleagues to consume in examining a witness because, as we have our schedule worked out now, we are tentatively reserving approximately 7 hours for the examination of majority witnesses.

I am advising the chairman of that fact because I want the Chair to know the procedure and I will give him a copy of this tentative agreement among the Republicans and I want the witnesses to know that we simply have to follow such a course of action if we are going to come anywhere near getting within the time schedule that confronts us in the handling of these witnesses.

This first witness, Mr. Munro, will be examined in chief by Senator Donnell.

Senator DONNELL. May I ask the Senator to state for the benefit of Mr. Munro how much time Mr. Munro has for the presentation of his statement.

Senator MORSE. We are asking each witness to present his main statement in 10 minutes.

The CHAIRMAN. For the record will you state what you want to appear in the record, please.

STATEMENT OF WALTER MUNRO, WASHINGTON, D. C.

Mr. MUNRO. My name is Walter Munro and I reside at the Washington Hotel in Washington. I expressed a willingness to the committee to appear as a former member of the Conciliation Service in the Department of Labor and to make some observations on title 2 of the Thomas bill and then be available to answer any questions that the honorable chairman and his associates might care to ask concerning any experience I might have had as a member of the Conciliation Service.

I would like to say, in addition to that, that I was appointed as a Commissioner of Conciliation in the Department of Labor in September 1942 and I resigned from that position the 1st of March 1947. In those 4½ years, covering the war years, as a Commissioner of the Conciliation Service, working under the jurisdiction of the Director of the Conciliation Service and the Secretary of Labor, I was stationed at Minneapolis, Kansas City, and Chicago, and also did work throughout the territory including Des Moines, Milwaukee, Cleveland, Ohio, and at times in Detroit.

Senator HILL. Will you please give your present occupation for the record?

Mr. MUNRO. Yes; I am glad you asked that. I have since the 1st of March 1947 been associated with the Brotherhood of Railroad Trainmen and particularly with A. F. Whitney, president, on matters pertaining to public relations.

I do not in any sense as a witness appear for the Brotherhood of Railroad Trainmen or for Mr. Whitney. The trainmen will be represented, and I hope by the president, who will speak for that organization.

I come simply as a former member of the Conciliation Service available to observe particularly title 2 of the Thomas bill which is up for consideration.

It seems to me as a former member of the Conciliation Service and perhaps drawing on that experience for a viewpoint that title 2 of the

Thomas bill, entitled "Mediation and Arbitration," which establishes the Conciliation Service within the Department of Labor, is the broad, straight highway that leads to industrial peace. I think that you can read that title from commencement to conclusion and arrive at the opinion that this rather than injunctions or the National Labor Relations Board or unfair labor practices or other things that may be mentioned in the bill, is the straight, wide highway to industrial peace.

It seems to me that the experience of the Service from 1913 down through the war years to and including 1947, the record of that Service indicates that when the Federal Government participates in labor controversies and labor disputes in the attitude of a third, disinterested, wholly friendly party, that then you are on the road to effecting settlement through collective bargaining around the conference table.

I think that the record of the Department will indicate that probably 80 or 85 percent of all of the industrial controversies or disputes that arise in connection with the renewal of contracts are settled to the satisfaction of the parties by the parties without participation on the part of the Conciliation Service.

I think in addition to that that when the Conciliation Service, particularly in peacetime, does participate as a friendly, disinterested, third party in an attempt to see what can be done to remove misunderstandings and to have justice prevail, that in better than 85 percent of the cases there is then a settlement without any work stoppage or without any loss to the employees, to the management, or to the community.

Before I go into detail in connection with this title 2, I would like to say that I greatly appreciate the opportunity as a former member of the Conciliation Service to have a chance to appear and say, based on my experience in the position that I occupied, and for which I applied and from which I resigned with no dissatisfaction whatever with the Service or anyone in the Service, that I think during the period of the war, all things considered, that management did a marvelous job, labor did a marvelous job, and the Conciliators, never number in total more than 250 or 300, did a magnificent job. Men who have spent 5, 10, 15, 20, and 25 years in the Service, charged with responsibility of doing what they could to participate in arranging industrial peace and at no time having any police authority or any power beyond the power of persuasion, have done a magnificent job.

The CHAIRMAN. May I stop you right there, Mr. Munro, to add one more word to your list. You mentioned police power and the rest of it. None of your decisions and none of your conciliations and none of your mediations ever result in law.

Mr. MUNRO. That is true.

The CHAIRMAN. And that is the greatest virtue that goes with conciliation and mediation. If I may make one more statement, as a witness and probably a contributor to what we are trying to do here, when I made the motion in the industry-labor conference of 1941, which resulted in the pledge and promise that there should be no strikes, there should be no lock-outs, and all disputes be settled by peaceful means, immediately I was asked what I meant by peaceful means.

I said by conciliation, mediation, and arbitration; and I am pretty sure I answered on a voluntary, recognized basis.

I pointed out there that if we ever got so strong in those decisions that we handed down a law which might bind another case which came along, immediately we would have law controlling instead of the incidents connected with the real case.

Now, as an ideal we never hit a higher plane in industry-labor relations that at that conference in 1941, but despite the high plane that we achieved, it did not result in all of the success which it might have resulted in had we stayed away from the field of laying down a precedent which could be hit upon by someone, sometimes an advantage-taker, sometimes an honest and just man, but a precedent which had the effect of any sort of adjudicated law which comes down.

I think that idea is not out of place. I hope my brethren on the committee will recognize what I am trying to say is that I do know you can settle these disputes by reason—not legal reasoning as was mentioned this morning—but by the reason of man to man, and that if we keep these disputes in that field we will go very much farther in industry-labor relations than we have ever gone before.

Thank you, Mr. Munro.

Senator SMITH. Mr. Chairman, could I ask a question?

Did I understand you were a member of the Conciliation and Mediation Service that the NLRB was connected with, or the National Railway Mediation Service?

Mr. MUNRO. From 1942 to 1947, I was a commissioner of conciliation in the United States Department of Labor, appointed by the Secretary of Labor, and functioned in that capacity under Dr. Steelman, who at that time was Director of the Conciliation Service. It had no connection whatever with the NLRB and, of course, did not participate in any labor disputes or controversies on the railroads.

Senator SMITH. It had nothing to do with the railroads.

I was told you had been on the Railway National Mediation Service.

Mr. MUNRO. Never, at any time. Thank you for clearing it up.

Mr. Chairman, if you do not mind, I would like to say something that I think might clear up some misunderstanding. There is no such thing as a settlement by a Commissioner of Conciliation. Commissioners of Conciliation do not have any power, do not have any judgments to pass in the form of a decision, and it is entirely in the attitude of a disinterested third person who attempts to see what can be done to find out what is right and what is wrong and to have people who are disposed to be reasonable and just be reasonable and just. But I cannot let it pass without putting emphasis on the thought that there is no power possessed by a Commissioner of Conciliation that permits him to pass a ruling or a judgment or a decision or to say that he has settled, or they settled the case in conciliation.

The best a conciliator ever hopes to accomplish is through the art of persuasion, and the result of his past experience or the experience of others is to persuade a settlement or an agreement through the elimination of misunderstandings or disagreement.

Now, reading title 2 of the Thomas bill, which is up for consideration, "The United States Conciliation Service is hereby established in the Department of Labor."

I may not be sure, but I would appreciate Senator Donnell taking a look at that part, but I think that is the first time that the United States Conciliation Service is established by statutory authority. I

think heretofore it has not been established as a result of an act of Congress.

Senator DONNELL. It is established in the Taft-Hartley Act, Mr. Munro, as a separate entity.

Mr. MUNRO. I think it is something different there than the language used here. It says "United States Conciliation Service." That goes back to the title that the Service used during the time it was functioning within the Department of Labor and prior to the Taft-Hartley Act.

Senator DONNELL. Mr. Munro, at page 10 of the booklet which Senator Neely quoted from a while ago, and also section 202 (a) of the Taft-Hartley Act, it reads:

There is hereby created an independent agency to be known as the Federal Mediation and Conciliation Service (herein referred to as the "Service," except that for sixty days after the date of the enactment of this Act such term shall refer to the Conciliation Service of the Department of Labor).

So that it was created as an independent agency by the Taft-Hartley Act.

Mr. MUNRO. I think the thing you describe there by name was at that time created by that act.

Senator DONNELL. Yes, sir.

Mr. MUNRO. But I think the United States Conciliation Service as such did not—

Senator DONNELL. You mean under that name?

Mr. MUNRO. I mean prior to the time the Taft-Hartley Act did create and form the organization that you mention in the Taft-Hartley Act, I think the Conciliation Service was simply a grouping of men known as conciliators within the Department of Labor under the jurisdiction of the Secretary of Labor, based on a section of the organic act that I think heretofore has not been mentioned.

The authority for Commissioners of Conciliation, to utilize their good offices as impartial conciliators in labor disputes, is found in section 8 of the organic act establishing the Department of Labor:

That the Secretary of Labor shall have power to act as mediator and appoint commissioners of conciliation in labor disputes whenever in his judgment the interests of industrial peace may require it to be done.

Senator SMITH. Was that legislation you just read?

Mr. MUNRO. Senator, if you please, I am trying to establish this point. I think that the power of the Secretary of Labor to act as a mediator or conciliator in labor disputes stems from the section of the organic act creating the Department of Labor, which I have just read, and which has not heretofore been mentioned, so far as I know.

Senator DONNELL. May I say this? It is not worth anything, but my impression from looking at the statute a year or two ago creating the Department of Labor accords with yours on that. I am not positive, but I think that is correct.

Mr. MUNRO. This section I am quoting from is in the Organic Act creating the Department of Labor, and which is the language contained in the credentials which each commissioner of conciliation carried. I am trying to establish that point, and I think it is a good thing to do, and I am not saying it in any sense critically. I think it is fine to give congressional authority or statutory standing to the Conciliation Service within the Department of Labor, because it cer-

tainly makes it legitimate and establishes it beyond the name on a piece of paper.

The CHAIRMAN. One logical question comes to my mind. Did the Taft-Hartley Act in any way take away that right from the Secretary of Labor? He still could act as a conciliator under the original act; is that right?

Senator DONNELL. If I may answer the question, at page 20 the bill says:

All mediation and conciliation functions of the Secretary of Labor or the United States Conciliation Service under section 8 of the Act entitled "An Act to create a Department of Labor," approved March 4, 1913—

giving citation—

and all functions of the United States Conciliation Service under any other law are hereby transferred to the Federal Mediation and Conciliation Service * * *

The CHAIRMAN. I remember that. That is an amendment of the organic act, isn't it?

Senator DONNELL. I would say it is; that is true.

Mr. MUNRO, this is not to interfere with your testimony, but in line with the time schedule which Senator Morse referred to a while ago, I haven't been able to exactly keep the time myself in view of the questions by Senator Thomas, which were quite proper.

The CHAIRMAN. That is in addition to the 7 minutes I have had charged to me.

Senator DONNELL. You were certainly entitled to that.

Mr. MUNRO, I believe you have just about taken up the 10 minutes you were supposed to take in your opening statement. Then, I am supposed to have 15 minutes to examine you, but I think I should proceed with my examination by asking you if you have something else, and, if so, go ahead with it.

Mr. MUNRO. I would like to do that, and take not more than 5 minutes.

Senator DONNELL. I would like a very few minutes to conclude the examination and will keep time the best I can.

Mr. MUNRO. I had observed that I was entirely in accord with the idea and that it was perfectly splendid that you were going to establish the United States Conciliation Service as it has been planned to establish it in the proposed bill. That is fine.

Now, it is to be within the Department of Labor and under the jurisdiction of the Secretary of Labor, and I am for that. I think that from 1913 until 1947 the performance of the Conciliation Service within the Department of Labor and under the jurisdiction of the Secretary of Labor and particularly under the jurisdiction of the Director, who at that time was Dr. Steelman, who went up to be Director, after having served in the field as a conciliator, is such that would not, it seems to me, justify the abrupt transfer of the Division of Conciliation from the Department of Labor, as was done in 1947.

I think that was a hasty action, probably a mistake, and as far as I can find out, certainly on the basis of information or assertion or testimony that would be very shallow and very slim as measured against the performance of the Service down through the years under a Secretary of Labor and under a Director of Conciliation and particularly in view of the performance during the war years.

I just think it was a mistake that perhaps the Eighty-first Congress may wish to recognize, at least review the evidence and give reconsideration to the subject in justice to all conciliators and all of their fine work all these years, including the war period.

Senator DONNELL. Mr. Munro, could I ask this question: Did you have occasion to read or hear the testimony given by Mr. Ching before our committee on February 1?

Mr. MUNRO. Yes, sir; I heard the testimony and read the statement.

Senator DONNELL. Now, you remember him speaking—I think I am substantially correct in quoting him, a statement made by him, without reflecting on the question of the impartiality of the Department of Labor, making no reflections of any kind—that in his opinion, an independent agency would be more apt to have the confidence of all parties concerned, and I think he had particularly in mind the confidence of management rather than an agency that is over in the Department of Labor the purpose of which is to foster, promote, and develop the welfare of the wage earners of the United States. You recall that point, do you not?

Mr. MUNRO. Yes; I know he expressed that as his opinion.

Senator DONNELL. Would you be kind enough to give us your view on that point by Mr. Ching?

Mr. MUNRO. Yes. In the first place, I think that respect for and confidence in the conciliator or the Conciliation Service is something that does not originate with management or with labor.

Senator DONNELL. I did not get the first part of your sentence. It is my own fault. Would you state that again?

Mr. MUNRO. I probably did not state it very well. I meant to say the thing called respect for the Department of Conciliation and for the work of the conciliator or confidence in the Conciliation Service or in the conciliator I think is something that does not originate with management, or, if you please, with labor.

I think it is something that originates within the Service and within the mind and the attitude and the make-up of the conciliator and is conveyed or reflected or transferred to the parties with whom he comes in contact in helping as friendly third person to affect a settlement.

Senator DONNELL. I notice in your testimony you mentioned that it is something in regard to the importance of a friendly disinterested third party.

Mr. MUNRO. Yes.

Senator DONNELL. Now, let me just give you a hypothetical case. Suppose that a dispute occurs between the employees and the management in the X. Y. Z. Corp.

Mr. MUNRO. Yes, sir.

Senator DONNELL. And they want to mediate.

Mr. MUNRO. Yes, sir.

Senator DONNELL. And the X. Y. Z. people find that the place that the mediators come from is over under Mr. Tobin. Now, this is not said with any reflection on Mr. Tobin, but it is under the Department of Labor.

Mr. MUNRO. Yes, sir.

Senator DONNELL. And they are employed over in the Department of Labor and they get paid over in the Department of Labor and they are associated with Mr. Tobin who is charged with this duty of

managing this Department, the purpose of which is to foster, promote, and develop the welfare of wage earners in the United States.

In addition to that, one of his assistant secretaries is an A. F. of L. man. In addition to that, another of his assistant secretaries is a C. I. O. man, so the whole surroundings there that these mediators come from are labor surroundings in the sense that I have indicated.

Now, suppose that you were president of the X. Y. Z. Corp., and you would say, "Well, now, here I am going into a matter where I represent my stockholders and it is proposed now that this mediation that is going to occur, that is going to take place, shall be by a mediator appointed out here from this group of people or by this group of people under the jurisdiction of this group of people over in the Department of Labor. I just do not know," says the president of the corporation, "whether it is the advisable thing to put these eggs in that basket. In other words, I may have hundreds of thousands of dollars at stake, and I ought to have somebody that is chosen from an independent agency that is obligated not to me as a manufacturer, not to the employees as employees. I want to get somebody like Mr. Ching or, if not Mr. Ching himself, somebody from an independent agency that is not obligated."

Now, would not there be a good deal of common sense in that kind of a statement from the head of the X Y Z Corp., and would not the stockholders naturally feel that he was exercising sound judgment in taking that position, even though it was not in any sense reflecting on Mr. Tobin, but would not he be very apt to feel that he would not want to put his stockholders' interests over in the basket that is controlled by those who are in the Labor Department with all these duties and surroundings that I have described?

Would you not feel that way if you were president of the corporation?

Mr. MUNRO. Well, I would like to receive the assignment under those circumstances, to have an opportunity to demonstrate that what is, is; and that what is true is true, and that the false must, in the presence of that truth, melt and become something that does not exist.

Senator DONNELL. I am very much impressed with your earnestness and your calmness in testifying here this afternoon, but I still want to ask you the question: Would you not feel that the president of that corporation would be showing a good deal of hard common sense, when he says, "Well, I do not want to have this thing mediated by a mediator that is chosen over there where the Assistant Secretary is a CIO man and the Secretary is A. F. of L., and it is the Department of Labor whose duties are to promote the interests of labor?"

You ought to have an independent somebody that is chosen by an independent agency that is not under any obligation for his pay or anything, is not under obligation, I say, in the Labor Department. Would you not think that there is a lot of good common sense in that view by the employer?

Mr. MUNRO. Of course, I would think that he was just as wrong as he possibly could be.

Senator DONNELL. Yes?

Mr. MUNRO. If he was dealing on the basis of an impression which he was entitled to have, but because I know the facts in the case, I

would look forward to an opportunity to prove several things to him, if you please.

Senator DONNELL. I am not going to stop you, but I just want to ask you to tell us why you used the expression "a friendly disinterested third party" in the early part of your testimony?

Mr. MUNRO. I am pleased to answer that question. In other words, a man, in order to qualify as a Commissioner of Conciliation, must satisfy the Secretary of Labor, the Director of the Conciliation Service, about four of his associates, that he is all of those things before he is permitted to file his application.

Senator DONNELL. And the Director of Conciliation is under the Secretary of Labor in this bill.

Mr. MUNRO. Frances Perkins was Secretary of Labor and Dr. John Steelman was the Director of the Conciliation Service, and he had associated with him many associate directors representing the far west, the far east, the South and the North, and it was necessary for each applicant to be interviewed by all of those people prior to the time the application was considered.

Senator DONNELL. What I was getting at is that this conciliator you are referring to, this hypothetical manufacturer is going to put all of his eggs in that basket—that man who is a conciliator appointed over here in the Department of Labor.

Is it not true under the Thomas bill it says:

The United States Conciliation Service shall be administered under the general direction and supervision of the Secretary of Labor. General policies and standards for the operation of the Service shall be formulated and promulgated with the approval of the Secretary of Labor.

Furthermore, even in addition to that, if you will get over to the next page it says somewhere there—I do not see it for the moment, but it is here—that the Director of the Conciliation Service, and somebody appointed under him I believe, are to be impartial, but it does not even say that the Secretary of Labor has to be impartial.

Have I not given you the picture correctly?

Mr. MUNRO. Well, you have said what you said.

Senator DONNELL. "The Director of the Service shall be impartial," but it does not say anything about Mr. Tobin being impartial.

Mr. MUNRO. Let us start out with first things first, if you please, and I know you believe in doing it that way.

Senator DONNELL. You are going to tell us whether that employer would be using good common sense and your reasons for it.

Mr. MUNRO. In the first place, the organic act of the Department of Labor imposes upon the Secretary of Labor the obligation to pursue those things which will result in the welfare of labor. Correct?

Senator DONNELL. Go right ahead. Here is the purpose of it.

Mr. MUNRO. Yes; that is right. My understanding is the way to do that is to do it in such a just way, such a fair way, such a right way, that it does not injure at any time any manufacturer but to benefit all manufacturers, all industry and all people that compose the Nation. I could, as Secretary, if I occupied the office, and I think Mr. Tobin could do it to a greater degree than I could, be faithful to the power that is imposed in me as an officer of the Government under that part of the organic act and do it in a way that you would almost think I was working in the interest of a manufacturer or for a shareholder in a corporation, because if I could pursue

justice to the extent that I could accomplish that, if I could create right where there had been wrong done, I think I would be doing exactly what the Congress intended me to do, and doing it in the interest not only of labor but business, the farmer, and all society. That is first.

Second, I notice that also in the organic act the Congress intended the man selected to be Secretary of Labor to be such a person who could act as a mediator or a conciliator.

As a matter of fact, at that time there probably was only 1 mediator, 1 conciliator, then 2, then 5, then 10, but it was the intention of the Congress at the time the organic act created the Department, and certainly it prevailed until 1947, that the man selected by the President to be the Secretary of Labor and confirmed by the Senate should be a man who could personally act as a friendly disinterested third party and not be particularly interested in knowing who was right and who was wrong, but what is right and what is wrong, and then use his good offices to see that justice might prevail in a way, I say, which would not in any sense injure business or injure society or be to the disadvantage of the public.

I think it is wholly consistent for the Secretary of Labor to be the person who can do these two things that we have mentioned. I never at any time experienced any attempt on the part of the Secretary of Labor or the Assistant Secretary of Labor, or any Under Secretary of Labor, to in any way influence me as a Commissioner of Conciliation—or did I ever hear of it, in 41½ years in the service, and, Senator Donnell, it is true that on more than one occasion personally I had occasion to turn to the Secretary of Labor or to the Assistant Secretary of Labor, and because of their strength or their connection or their experience, they were able to increase any capacity that I had as a Commissioner of Conciliation to effect a settlement.

Senator DONNELL. Mr. MUNRO. I have no doubt of your effort to be fair, and no doubt you were, but I do not think you answered my question whether or not the head of this corporation, this XYZ corporation—my question is: Would he not be showing mighty good judgment in saying, "Well, I am not going to submit here on mediation on something that involves hundreds of thousands of dollars, maybe millions of dollars for my company, and have the mediator that is going to pass on this thing chosen right out of the labor camp, so to speak," that I have described?

Mr. MUNRO. Of course. I do not think it is a labor camp.

Senator DONNELL. Well, you know what I mean, the Department of Labor.

Mr. MUNRO. Yes; and, secondly, Senator Donnell, if you do not mind, I think that impression should not be recognized to the extent that it receives congressional sanction that would transfer the entire organization beyond the Department of Labor just because that man thinks so. I was here this morning when someone suggested, and I think improperly, that you might be hostile to labor. I do not think a thing like that should be recognized. I certainly do not think it should be endorsed, and I do not think it should ever receive congressional sanction. I think it should be investigated to the extent that if it does have validity and truth, it should be recognized, and if not, it should be measured against your character, your performance, your

experience, your intelligence and your education, and if it is not true, it is false and should not be recognized.

I contend there is no such thing, generally speaking, in the Department of Labor, in the Conciliation Service, as being one-sided to the extent that it could be objected to by any manufacturer.

Pardon me, just a second, Senator. I think it is the age-old cry "Can anything good come out of Nazareth?" and the answer now as then is, "Wait and see."

Senator DONNELL. No; I do not think that is a correct analogy. It seems to me, Mr. Munro, that the question here—maybe I have not made it clear to you—the point I am putting to you is if I am sitting here as the president of a corporation, or you are—put me there for the moment—I am sitting there, and here comes a series of labor disputes involving hundreds of thousands of dollars, and it is suggested, "Well, we had better have the Mediation Service, the Conciliation and Mediation Service go into it," and I say, "I am perfectly willing to have it mediated, but I want to have what Mr. Munro said here, a friendly disinterested third party."

Is not the average employer, whether right or wrong, very apt to say, "Well, I cannot do that with safety or justice to my stockholders."

Now Mr. Ching did not make the point at all that the Department of Labor was actually unjust or partial. His point was that to put this Conciliation Service back into the Department of Labor tends to decrease the confidence that the employers will have, and tends to decrease the amount of utilization of the services of the Mediation and Conciliation work.

While I do not think we will gain much by debating it back and forth—you expressed your views, I have indicated mine—yet it does seem to me, Mr. Munro, there is a lot of good, hard common sense in that position and I was greatly impressed with it. You think the contrary.

Mr. MUNRO. Yes.

Senator DONNELL. I am impressed with your interest and sincerity. You have a right to that opinion.

Mr. MUNRO. Could I make just one observation? I notice in Mr. Ching's statement that he made this statement on page 6. I will hand it to you:

The experience of the present service has been that dozens of the most able mediators who found the doors of many employers closed to them for years under the Department's administration, found such doors ajar when they introduced themselves as representatives of this independent agency.

Senator DONNELL. I remember him saying that.

Mr. MUNRO. You remember that?

Senator DONNELL. Oh, yes; and I was very much impressed with it.

Mr. MUNRO. All right. If I were a Senator or a member of the Senate Labor Committee, that would have a tremendous impression on me if it were true. It would have no impression on me at all if it were false, and I would ask that you investigate that because in my personal experience in 4½ years I never saw a closed door anywhere at any time.

Never did any manager at any time anywhere ever close the door, and I never heard of any commissioner of conciliation—and I know a hundred of them well—that ever had such an experience, with one single exception. That was the J. I. Case Co., of Racine, Wis., who,

for one reason or another, did not welcome any commissioner of conciliation.

Incidentally, that is the situation where an Assistant Secretary of Labor, going beyond and after a commissioner of conciliation, was able to get through the only closed door I ever heard of, but I think that certainly should be either sustained by facts or should be recanted to the extent of giving Mr. Ching an opportunity to change the wording if he was using a figure of speech. Commissioners of conciliation throughout the country cannot, based on their experience, say to you that this is true, because it is false.

Senator DONNELL. Mr. Munro, I am admonished by the time schedule here. I ought to adhere to it, as I understand it, and am willing to do it as much as I can.

Before the gentlemen on the other side of the table begin to question you, I want to ask you this: You are, of course, familiar with the National Mediation Board, that is, the Railroad Board?

Mr. MUNRO. Yes, sir.

Senator DONNELL. And we all realize the work that it has done and whether or not there are still dangers. You remember I read out of the report, that the report itself of 1948 says that the record does not bode well for the future. Do you recall that, in substance?

Mr. MUNRO. Yes; I heard you read that, Senator.

Senator DONNELL. I am not saying anything against the work it has done, but the difficulty it has had, and so forth. I want to ask you this: Do you think that that National Mediation Board ought to be over in the Department of Labor? This is a thought that was suggested by Senator Smith, by the way. I would like to ask you that.

Mr. MUNRO. Do I have Senator Morse's permission to release me from the agreement that I had with him that my testimony will be confined entirely to title 2?

Senator DONNELL. I do not want you to violate any agreement. I know you want to respect it.

Senator MORSE. He speaks facetiously.

Mr. MUNRO. You and I entered into an agreement and you stand for the keeping of an agreement, and the agreement was I would confine my testimony to two points. First, as a former commissioner of conciliation; and, second, to article II of the act.

Senator MORSE. I would like to say to the Senator from Missouri, Mr. Munro and I were in dispute over title 2. I do not share Mr. Munro's point of view, but I think it ought to be made a matter of record. I will be very glad to ask Senator Donnell to have him testify on matters other than title 2.

I now say to Mr. Munro, if you took that as a limitation on your testimony, you may testify to anything you wish.

Senator DONNELL. Mr. Munro, would you be kind enough to tell us the answer to this question suggested by Senator Smith, whether you think the National Mediation Board which was created under the Railroad Act should be placed over into the Department of Labor.

Mr. MUNRO. I am told by those who know much about it—I have had no experience with the National Mediation Board; I am not representing the Brotherhood of Railroad Trainmen nor any of the railroad organizations as I said. My impression in talking to people is

that that is a specialized industry that has a nomenclature all its own where men, in order to be able to even find their way around, have to be accustomed to and acquainted with all the thousands of rules and regulations, and I am told that down through the years that Service has rendered public service and service to both sides in labor disputes to the extent that it might very well become the pattern for us to follow in industrial disputes.

Generally speaking, I think that we do list some parts of their procedure into the Thomas bill by making it available for the first time as a part of conciliation.

Senator DONNELL. The question I asked you is whether or not you were in favor of putting the National Mediation Board over into the Department of Labor. Would you favor it or not?

Mr. MUNRO. I think it should stay exactly where it is, because it has been serviceable and there apparently is no need to bring it in.

This is the question, if you please, of putting the Conciliation Service back where I think it belongs because I think it was mistakenly taken out.

Senator DONNELL. You have had some personal observations. How long have you been with the Brotherhood of Railroad Trainmen?

Mr. MUNRO. Currently since the 1st of March 1947.

Senator DONNELL. And you are with them now?

Mr. MUNRO. Yes, sir.

Senator DONNELL. In what capacity?

Mr. MUNRO. As assistant to Mr. Whitney in matters pertaining to public relations. My entire experience was on a 1947 case and a 1948 case, and I am glad to tell you we were able to adjust our differences with the railroads in those two cases in Chicago, not getting as far as the Mediation Board, and without anything except collective bargaining between the parties.

Senator DONNELL. A. F. Whitney, of the Brotherhood of Railroad Trainmen?

Mr. MUNRO. Yes, sir.

Senator DONNELL. I have already consumed more than our time, Mr. Chairman. It will be charged, of course, to us.

The CHAIRMAN. Are there any questions, gentlemen?

Senator HILL. Mr. Munro, as I understand your testimony, based on 4½ years of service in the United State Conciliation Service, you feel that the important thing is not whence the mediator comes, but what that mediator may be himself, that is as to how he impresses both sides with his fairness and his singleness of purpose, to wit, to bring about an agreement that is fair to both sides. Is that right?

Mr. MUNRO. Yes, Senator. In addition to that, if you please, I would like to have it within the Department of Labor for an additional reason, and that is, I would like to have the assistance and the support and the cooperation of another man, the Secretary of Labor, his assistants, and Under Secretary, and if you please in certain instances an assistant secretary who would come from the A. F. of L. or one that might come from the CIO, because there are times when they could be very, very helpful in effecting a labor settlement where you must get the agreement of the union as well as the management in order to effect a settlement.

Use all of those contacts that you possibly can, and you do not have them if you stand in the center of Pennsylvania Avenue and are not in

a position to utilize the offices of the Secretary or his assistants or his associates.

Senator HILL. In other words, a man's prestige such as a Secretary has as a member of the President's Cabinet, or even an Assistant Secretary's prestige and his influence, his voice, might be tremendously helpful in one of these disagreements; is that right?

Mr. MUNRO. I think I could go places as a conciliator working under Mr. Tobin, former Governor of Massachusetts and former mayor of Boston, where I would have an acceptance that I could not hope to have personally.

Senator HILL. In other words, you would have a passport.

Mr. MUNRO. I think so; yes.

Senator HILL. With a higher authenticity?

Mr. MUNRO. Yes. Now I want to say another thing, and that just takes a sentence. In the Conciliation Service, because we do not have any power and we do not act as a judge, and we do not pass on a decision, and it is entirely on the basis of persuasion in trying to see what can be done to do the thing that the people already want to do, all labor wants to live in peace, all management wants to live in peace; they want to do the right thing, and if they are only given an opportunity and a little assistance from time to time, they can do that.

Senator Humphrey will bear me out. During the time he was the mayor of Minneapolis, time and time again we used his services in the daytime, at night, Sundays and holidays, and we used the services of the Governor at that time who is now a Senator today, we used those services nighttime, daytime, and Sundays to add to the strength that we had. As a result of that additional strength and additional cooperation and, if you please, their prestige, we were able to effect a settlement, and we never did have any work stoppages or any strike of any kind at any time from Pearl Harbor right straight through until Japanese day in a territory where people wanted to live in peace. We never had any power except persuasion.

This, I think, is the highway that leads to peace.

Senator HILL. And if this Service were under the Secretary of Labor in the Labor Department, certainly no one could have greater concern for industrial peace than the Secretary. Is that not true?

Mr. MUNRO. That is his responsibility under the organic act.

Senator HILL. That would be definitely his responsibility to bring out industrial peace; is that not true?

Mr. MUNRO. Under the act.

Senator HILL. And you feel then that having it under him would bring an influence, a prestige and a command of voice, so to speak, that would be of greater service in helping this Mediation Service do its best job. Is that right?

Mr. MUNRO. Senator, I think that the transfer which I say was hasty, and which I think was a mistake, and which I think was on evidence that was very slim, was a terrible reflection on not only 250 men who did magnificent work in that framework, but I think it is very much of a reflection on Dr. Steelman who at one time was a commissioner of conciliation and now is, according to the press, the Acting President in the absence of the President from his position, and I think it is a tremendous reflection on the marvelous Secretary of Labor, Frances Perkins.

Senator DONNELL. I did not get that. Who is the Acting President?

Mr. MUNRO. I did not say that, Senator. I said I thought it was a reflection on Dr. Steelman who at one time was a commissioner of conciliation, was later the Director of Conciliation under the Secretary of Labor. He is now the assistant to the President of the United States, and acts in that capacity during the time that the President is away from office. I have heard him referred to in the paper as the Acting President when the President was away from Washington.

Senator DONNELL. I want to just interpose this observation. Dr. Steelman is from my own State. I have high respect for him.

Mr. MUNRO. Not from Missouri.

Senator DONNELL. It is my understanding he is from the State of Missouri.

Senator HILL. Arkansas. He was born in Arkansas and ripened in Alabama, and then we gave him to the Nation.

Mr. MUNRO. I wish he were from Missouri.

Senator DONNELL. Well, I thought he was. I thought he was from Missouri.

Mr. MUNRO. No, sir.

Senator HILL. My friend over there is so gentle and kind, I wish to state his charming wife, Mrs. Steelman, I understand comes from Missouri.

Senator DONNELL. But the point I was making is this: In the first place, of course, you are not speaking at the present time of Dr. Steelman being the man who acts for the President. We have a vice president now——

Mr. MUNRO. No; I did not say that. I said the man was referred to by the newspapers as the Acting President in the absence of the President.

Senator DONNELL. I do not know what functions Dr. Steelman has. He may have been and doubtless was entrusted by President Truman with many important functions, and doubtless carried them out well.

I want to interpose a word. I know of no authority anywhere that permits the President of the United States to designate an Acting President or an Assistant President. I think it is a function he cannot delegate and I do not want this record to allow that——

Senator HUMPHREY. Senator, do you know of any rule of conduct, or of any statute that would deny the newspapers of this country the opportunity, and let me say even at times, liberty and license, to designate someone for their own purposes as "Acting President"?

Senator DONNELL. Well, I know of nothing. In fact, I am strongly for the freedom of the press.

Senator HUMPHREY. That-a-boy, you are right!

Mr. MUNRO. I am perfectly willing to accept your judgment on a matter of that sort because I think what I read I simply read in the paper. I was trying to establish the point that I think the Congress unintentionally and certainly the Senate Labor Committee unintentionally, in taking the Conciliation Service out of the Department of Labor hastily, did not only make a mistake that might be reviewed at this time, but I do say it must forever stand as a reflection on Dr. Steelman and on the then Secretary of Labor, because both of them were conscientiously attempting to do the thing the Congress had intended and that was to act in a friendly, unbiased, unprejudiced and

without color attitude in affecting a settlement, and they were very, very successful in doing it.

I do not think Congress intended such implied reflection——

Senator DONNELL. I have never heard even the remotest suggestion.

Mr. MUNRO. Senator, it did disturb the morale of the Service because it did carry with it that implication.

Senator DONNELL. But I still think that the manufacturer, the head of the corporation, is very apt to state: "I do not want to risk the money of my stockholders in a mediator when the mediator comes out of the Department of Labor, with a CIO man Assistant Secretary and an A. F. of L. man an Assistant Secretary, and the duty of the Department of Labor as announced in the statute."

Mr. MUNRO. There was a gentleman testifying before the committee here the other day who came from one of the large textile institutions in New Jersey, and I noticed during the time of his examination he was asked his opinion on this and he said he much preferred to have the Conciliation Service separate and apart from the Department of Labor.

Senator DONNELL. Was that Mr. Gardiner?

Mr. MUNRO. Mr. Gardiner.

Senator DONNELL. I missed Mr. Gardiner's testimony. He may have been on for a moment or two.

Mr. MUNRO. I introduced myself to him immediately as he left the hearing, told him who I was.

Senator HILL. Mr. Chairman, excuse me 1 minute. I am not one of those who believe in too much limitation of debate, but I do want to know whose time this is on.

Senator MORSE. Yours.

Senator HILL. I notice he is going back over something I think which has already been covered.

Senator DONNELL. I think the Senator's criticism is very proper. I will not pursue this further.

Mr. MUNRO. Except this, Senator: I did introduce myself to Mr. Gardiner and I did ask him this question, "What is your recommendation that this Conciliation Service be independent rather than in the Department of Labor based on, experience that you had had with the Conciliation Service, something that was unsatisfactory?"

"No," he said, "we never at any time had any experience with the Conciliation Service either within or beyond the Department of Labor," and I think there is a great deal of that. I think a great many people are expressing an opinion they are not either satisfied or dissatisfied customers.

I think they rather just have sort of a vague impression and then they repeat it in the hope that it will find acceptance, but I am not for accepting something that is false as true until it can be established as false.

Senator HILL. Mr. Munro, you know of nothing in the record, do you, no facts that show that this independent agency has done any better job than the exceptionally fine job that was done by the Mediation Service when it was in the Department of Labor, and I refer particularly to the war years when it did such a wonderful job.

Mr. MUNRO. Senator, I can only testify as to the performance of the Service during the time it was a part of the Department of Labor,

and I think an investigation of that record would show that it not only deserved to remain in the Department of Labor, but it should have had a larger appropriation and more people because it is the avenue that runs to peace and not the one that runs to the divorce court for a lot of trouble.

I think it is a strange situation that the National Labor Relations Board should have an appropriation of the size it has and personnel to the degree that it has, and the little Conciliation Service on the side of peace never more than 250 or 300 men to try and preserve peace, particularly during the period of war when we had at least 12,000,000 in uniform and many, many millions on the industrial front to deal with.

Senator PEPPER. Will the Senator allow me just a minute?

Mr. MUNRO, you have no doubt already stated your conclusion before I returned. Based upon your years of experience as a conciliator, will you state whether or not in your opinion by your experience it is possible to legislate industrial peace between management and labor in this country in a congressional enactment?

Mr. MUNRO. Of course I think that the part of the Thomas bill that relates to the establishment of the highway of peace that makes no reference to court procedures or injunctions or unfair labor practices is entirely consistent with the atmosphere and the climate that we attempt to establish in a conciliation meeting. No one ever thinks in terms of suggesting unfair labor practices or section X-Y-Z-42-1 or how to take the necessary steps to bring about the employment of the services of the National Labor Relations Board.

We are thinking in terms of doing what we know the parties want to do, and your bill, in my opinion, in establishing as the policy of the United States the inclusion of arbitration features in the contract will go very, very far.

Senator PEPPER. You think in the long run there will be more and better industrial peace under the Thomas bill than under the Taft-Hartley Act?

Mr. MUNRO. There is not any question about it. There will be more industrial peace than when the Department of Labor contained the Conciliation Service because you are giving this an extra instrument which at that time it did not possess.

Senator PEPPER. Mr. Munro, I want to give you a set of facts and I want to ask you to express an opinion. I want to tell you that I know a man, a wealthy man who had the idea that the reason there was domestic difficulty—trouble between husbands and wives—was because before the couple married they did not have a clear-cut written document defining the duties and the obligations of each one of the spouses to the contract, and finally when this man got ready to get married, found the lady of his choice, he had himself a lengthy and elaborate contract drawn up.

That contract provided how many nights a week the couple was going to go out to dinner, how many nights a week they were to stay home. The contract expressly provided that neither of the parties could see a person of the opposite sex more than three times.

Senator HILL. Over how long a period?

Senator PEPPER. At any time. They just could not see them more than three times, any person of the opposite sex. It also provided that if relatives of either one of the spouses came to visit, that relatives of

the other spouse should have the privilege of coming and staying exactly the same length of time, but no longer, and it spelled it out in the most minute way.

It even stipulated the subjects that neither side should bring up for discussion, subjects which on any previous occasion had proved to be disagreeable, and they had it all spelled out. They wanted to assure a life of domestic bliss and continual happiness.

Now upon that statement of facts, and this actual case I am putting, what do you suppose happened?

Senator WITHERS. Senator, let me ask you this question.

Senator PEPPER. What do you suppose happened?

Senator WITHERS. I want to suggest this: Did the parties contract as to the fact that they must be of opposite sexes?

Senator PEPPER. That was included in the contract. Would you be surprised if I were to tell you that after a long and acrimonious litigation they got a divorce?

Mr. MUNRO. Could be.

Senator PEPPER. So you think probably the analogy might be applied to industrial relations. You cannot spell it out in a statute.

Mr. MUNRO. Well, I was hoping they did not end up in the National Labor Relations Board, but I did not know.

Senator HILL. You mean a cease-and-desist order?

Mr. MUNRO. Senator, you would be interested in this——

Senator PEPPER. That is all, thank you.

Senator HILL. Thank you, Mr. Munro.

Senator HUMPHREY. I have a question I would like to ask the witness. I would like to get an answer to this. I am sure you are very familiar with the present Conciliation Service, Mr. Munro. I appreciate your comments about our efforts back in the days when we were in Minneapolis.

I can give testimony here to the Conciliation Service; I think I can give testimony in behalf of at least 550,000 people, and we are quite proud to say that our city has the finest labor-management record of any major city in the United States. I even took exception with the Secretary of Labor in this respect, if you will recall.

Mr. MUNRO. Yes, I remember.

Senator HUMPHREY. And we at one time had one of the most difficult labor-management periods of any city in the United States. We knew what it was to have blood on the streets, and we knew what it was to have the most violent kind of proposition between two segments of our society, labor and management.

Now I at many times called on the Conciliation Service in the city of Minneapolis as an interested party in labor disputes in order to get peace in our community.

Mr. MUNRO. That is right.

Senator HUMPHREY. I remember very well, too, Mr. Munro, that as a political officeholder I was supposed to have certain friends, but I recall that many a businessman came to my office and asked that certain things be done in order to get conciliation. Now I would like to ask you, you are familiar with the State conciliation service in our home State, are you not?

Mr. MUNRO. Yes.

Senator HUMPHREY. Who are the people that head up that service? Are they businessmen or labor men?

Mr. MUNRO. Generally speaking the men in the Conciliation Service in the State of Minnesota—and it is a fine State service and we cooperated with that service and got fine cooperation from the service—are ordinarily men who come from the field of labor.

Senator HUMPHREY. Absolutely, without exception. Do you know of any time any of those labor men ever had a door closed to them?

Mr. MUNRO. I did not have any such experience whatever in the State conciliation service. I never heard of it.

Senator HUMPHREY. You worked very closely with the State conciliation service, did you not?

Mr. MUNRO. On a day-to-day basis.

Senator HUMPHREY. Do you know what the State labor conciliation agent says about the Taft-Hartley Act?

Mr. MUNRO. No; I do not.

Senator HUMPHREY. About a week ago I read an article from the State labor conciliator in our State and I am very proud of the work in that office because they have applied the principle of peaceful negotiation.

Mr. MUNRO. Yes.

Senator HUMPHREY. He said that the Taft-Hartley Act provisions have so confused the relationships between State and Federal service that it had hampered their action as a State conciliatory service. That is not a matter of guessing. That is a matter of record.

In fact, he went so far as to have sent through the Governor a message transmitted to the legislature on this matter, and I have on my desk right now a letter from the attorney general in my State as well as from the State labor conciliator in my State wanting to come down here and testify, and I have not been able to work them in, knowing of the limitation in our time, so I asked them to send statements here which we are going to have incorporated in the record about the disagreeable situation at the present time of Federal law in conflict with State law.

Mr. MUNRO. When I was there it rendered a fine cooperation with the Conciliation Service of the Department of Labor and we in turn attempted, as you know, to cooperate with that Service day and night.

Senator HUMPHREY. That is right. Have you ever heard of the present labor conciliator in the State of Minnesota ever having his door closed to—

Mr. MUNRO. Never.

Senator HUMPHREY. When it was under the Department of Labor?

Mr. MUNRO. I never heard of any conciliator under the Department of Labor anywhere at any time ever having a door closed, never, with the single exception of the instance I mentioned of J. I. Case, and we know what that was all about.

On the other hand, we have had on numerous occasions observed manufacturers time and time again as repeat customers coming back to the Conciliation Service and causing us trouble by asking for the conciliator that had previously served them and served them well.

Senator HUMPHREY. That is right. Do you recall the case in the city of Minneapolis that dealt with the Hudson Manufacturing Co.? Were you there at the time?

Mr. MUNRO. Yes.

Senator HUMPHREY. It was in the days when the Conciliation Service was under the Department of Labor.

Mr. MUNRO. Yes, sir.

Senator HUMPHREY. Do you remember we had the one dispute for a hundred days? I think we had some difficulty with picketing and strikes. Anyway, there was a very tense situation.

I called up the president of that company. He lived in another city. I wrote him a letter and asked him to conciliate that dispute. I asked him if he would accept some renewed offers on the part of the Conciliation Service, and I think you recall what happened. He accepted. The dispute was readily settled.

Mr. MUNRO. In many cases you saw the requests for Conciliation Service originates with the manufacturer.

Senator HUMPHREY. That is right.

Mr. MUNRO. In many cases with the mayor, in many cases with the governor, in many cases on the part of a disinterested person, but

Mr. MUNRO. In many cases you saw the request for Conciliation I have never had any personal experience anywhere at any time in which a door was closed, and I never heard of it, with the single exception of the one case that I mentioned, and I think the thing either should be investigated or that Mr. Ching should be given an opportunity to sustain it with some evidence.

Senator HUMPHREY. I want to ask you a question now.

What is Mr. Ching's title?

Mr. MUNRO. Director of the Mediation Service.

Senator HUMPHREY. By the way, he married a lady from St. Paul?

Mr. MUNRO. I would not know. I cannot keep up with those things.

Senator HUMPHREY. Does the present Commissioner sit with the President and his Cabinet when there are serious national emergencies? I mean is there a regular reporter system?

Mr. MUNRO. The Director?

Senator HUMPHREY. Yes, the Director.

Mr. MUNRO. I would not know about that. All I know is what I read in the current number of Life magazine, something that you probably saw and that is out this week. It shows something of the divisions and bureaus and agencies and set-ups of different types and descriptions that are supposed to report directly to the President and not through an established Cabinet officer. This is in connection with a plan to lighten the Presidential load, the Hoover report, and it says:

The 57 bureaus that report directly to the President do not include 17 advisory groups. The Commission's plan would give the President power to abolish and consolidate these bodies into a few departments.

I have no way of knowing how frequently the Director of the Conciliation Service would see the President, if at all. I do know this: It is the consensus of the commissioners of conciliation that the conference is the best place to settle labor disputes; that the world's worst place is the White House. That is the one place not to go for the settlement of a labor dispute.

Senator HUMPHREY. Are you speaking of the White House as an agency of Government or as a particular person?

Mr. MUNRO. I think it is as far removed from the conference table as it is possible to go in this country, and I think that as you move away from the attitude and the climate and the conditions that surround the conference table with which you are familiar, that you get into the fog and into the trouble as you get to 1600 Pennsylvania Avenue.

I mean the more that labor disputes can be held out of the hands of Government the sooner they will be resolved, and I speak from some little experience. The minute they get to rely upon Government for the resolution of all labor disputes, the more the difficulties will be.

Senator MORSE. Will the Senator yield for a question at that point?

Senator HUMPHREY. Yes, sir.

Senator MORSE. I want to say this to the witness. Commenting on his observation about keeping labor disputes out of the White House, I think it is the world's worst place to get labor disputes settled, because it is not the President's job.

Senator HUMPHREY. Or the governor's job, or the mayor's job, or the county commissioner's job.

Senator MORSE. It is taking up his time trying to settle a labor dispute.

Mr. MUNRO, do you have an opinion as to whether or not conciliation has been hampered in any way as the result of the passage of the Taft-Harley law?

Mr. MUNRO. Oh, there is no question about that.

Senator MORSE. In what way?

Mr. MUNRO. Well, in the first place, the Taft-Harley Act establishes procedures to be followed leading to the National Labor Relations Board, sections and sections from the standpoint of unfair labor practices, charges and countercharges. The Conciliation Service which establishes the policy of not participating in any way in any controversy or dispute if there is evidence that either party has filed an application with the National Labor Relations Board for its services.

That is just like having an effective and a competent and an efficient fire department and stopping it as frequently as you can stop it, as the result of the Taft-Hartley law which is done by a police department that arrests its progress.

Senator MORSE. Is it your opinion, Mr. Munro, that the technical defenses that the Taft-Hartley law gives to those employers when they really do not want to proceed rapidly with good faith in collective bargaining, is of assistance to them in staving off for a time conciliation, and therefore the act is operating as a handicap to conciliation?

Mr. MUNRO. You cannot use the National Labor Relations Board and the Conciliation Service at one and the same time, and the extent that you can use the National Labor Relations Board or appear to use the National Labor Relations Board just denies the use of the Conciliation Service, and to that extent it does not promote industrial peace.

Now, from the standpoint of timing, you would be interested to know that at the time that I was in the Conciliation Service, under Dr. Steelman and the Secretary of Labor, it was the practice of the Conciliation Service to answer requests for service in 24 to 36 hours. I do not think that the Commissioner of Conciliation could have retained his position had he not answered the call in that period of time.

That means that a commissioner of conciliation enters the dispute when it is a very small spark—gets there in time, which is very important. Then the record indicates that, generally speaking, from the time the conciliator takes hold as a participating disinterested third party until the time that a settlement has been effected is normally about 30 days. That is, in contrast to the time that has been mentioned

of servicing these cases through the National Labor Relations Board, to me it is quite significant because I think that many large fires would be no fires at all if the Conciliation Service could get there promptly and could establish the climate and the attitude that will lead to effecting a settlement. The Conciliation Service does not now participate in any jurisdictional dispute. It does not now participate in any case where there is an indication of unfair labor practice. They do not now get into any case where there is a secondary boycott.

Well, now, of course, many of those jurisdictional disputes, many of those secondary boycotts, many of those unfair labor practices could be dissolved if the Conciliation Service would get there promptly and effectively. People do not want the thing to be prolonged, and in the attitude on settlement they want an effective adjustment and will get it if they are given an opportunity.

Senator HUMPHREY. I would like to ask this question with reference to the budget. There will be just one or two more questions. I do not know the facts and the figures. I wonder if you are familiar with them. Was the budget for the Conciliation Service, as passed by the Eightieth Congress—did it provide for more manpower or less manpower than had previously existed under the old arrangement?

Mr. MUNRO. I would not know, Senator.

Senator HUMPHREY. I would like to be able to find that out. Maybe one of the staff can find it out for us.

Mr. MUNRO. It might also be interesting to get the appropriation for the Conciliation Service to measure against the appropriation for the National Labor Relations Board and the personnel of the two services for comparison because one is far removed from the other.

In other words, I mean Senator Pepper used the illustration of marriage. I think this is the divorce court of happy marriage, the unfair labor practice, the Taft-Hartley Act, and all of these opportunities to arrest the development of industrial peace and the participation of the Conciliation Service.

Senator HUMPHREY. Thank you very much.

The CHAIRMAN. Are there any other questions?

Thank you.

Mr. MUNRO. Thank you, Mr. Chairman.

The CHAIRMAN. I will give you back your magazine article.

Mr. MUNRO. Thank you, sir.

STATEMENT OF WILLIAM T. GOSSETT, VICE PRESIDENT AND GENERAL COUNSEL, FORD MOTOR CO.; ACCOMPANIED BY MALCOLM DENNIS AND R. E. ROBERTS

The CHAIRMAN. Mr. Gossett, please. I would like to say that Mr. Gossett was at one time one of my students, and therefore I am a prejudiced judge, so I am going to ask Senator Murray to preside.

Mr. GOSSETT. Mr. Chairman, I filed with the clerk a statement. In view of the length of it, however, I shall not attempt to read it. I would like, however, the permission of the committee to read a shortened version of the statement.

Senator MORSE. We ask, Mr. Chairman, that Mr. Gossett's entire statement be incorporated in the transcript.

Senator MURRAY. It will be so incorporated.

(The prepared statement submitted by Mr. Gossett is as follows:)

STATEMENT OF WILLIAM T. GOSSETT, VICE PRESIDENT AND GENERAL COUNSEL OF
FORD MOTOR CO.

My name is William T. Gossett. I am vice president and general counsel of Ford Motor Co., Dearborn, Mich.

The single question I would like to discuss today is whether the Federal Government should impose upon management mandatory collective bargaining with unions of supervisory employees.

It is our conviction that it should not.

Ford Motor Co. not only has explored thoroughly the pros and cons of the unionization of foremen, it has submitted the idea to exhaustive test. The Foremen's Association of America was founded at Ford in 1941. We were the first company to give this union formal recognition, and we bargained with it over a longer period of time than any other company.

Our conviction, therefore, is not based on speculation or theory; it is founded on years of experience—virtually all of it unhappy—with an organization of supervisory workers.

The problem of supervisory unions is often characterized as a "labor" problem. This is a fundamental error of great importance. The question involved is, rather, the ability of management to perform its functions.

I am here, therefore, not as a lawyer to comment on the legal aspects of the matter, but as a spokesman for the management of Ford Motor Co. to discuss, as a problem in management, our long experience with a foremen's union.

Throughout this statement I shall be discussing the foremen at Ford solely from the standpoint of our relations with them as union men. I want to make it clear that my remarks are in no way intended to reflect on their individual ability or loyalty. The foremen at Ford are capable, experienced, and loyal. They have been with the company an average of almost 21 years.

I was not with Ford during all of the period involved. This is perhaps an advantage, because I have been able to review the record with considerably more objectivity than might otherwise be the case.

This review discloses the following facts:

In November 1941, when Ford was first asked to consider this question, the company, in common with most of American industry, was rapidly expanding its labor force to meet national defense requirements. Many rank-and-file employees were suddenly promoted to foreman status. The company in mid-1941 had signed its first contract with UAW-CIO. At the same time, the demands of the national emergency for all-out efficient production threw into bold relief management problems, many of them at the foreman level.

Therefore, when, late in 1941, the Foremen's Association asked the company to negotiate, it found an audience at Ford which was at least willing to listen to argument. The need was for a management team which could most efficiently tackle the big jobs ahead. When the Foremen's Association represented that it would help to solve this problem, and thus to weld the team together by quickly bringing foremen closer to the rest of the management group, the company decided to give it a trial. Thus, the decision was made to consult with the association. At that time Ford, of course, was under no compulsion to do so.

I shall not attempt here to review in detail the first few years of this relationship. It is sufficient to note that it was unsatisfactory and disappointing to both sides.

By November 1943, when our original agreement expired, the company had been completely disillusioned. None of the results predicted by officials of the association had come to pass. The settlement of one difficulty seemed to breed others in rapid succession. Nevertheless, the company once again yielded to the association's argument that the failures that had occurred were because the agreement did not go far enough; that establishment of a contract setting up detail employment rules and a full-scale grievance procedure would be insurance not only against walk-outs and similar unpleasant incidents, but also would produce a more satisfactory relationship with the management of the company.

Hopefully, Ford Motor Co. gave way to these arguments, and took a very long stride in May of 1944. It granted to the Foremen's Association a contract, containing virtually every demand made by the association. (A year later the company went even further; it agreed to the appointment of an umpire for final decision on grievances. This was in deference to the association's plea that the grievance procedure needed this one final step.)

Here was the situation when Ford took this revolutionary action:

(a) The company was under no obligation to bargain with the foremen's union. The Maryland Drydock decision was in effect, and foremen's unions had not yet been recognized under the Wagner Act.

(b) The association had failed to gain bargaining recognition in any company in the automobile business, and its strikes had been abortive.

(c) Nevertheless, since the association's efforts had at intervals disrupted war production in some of our plants and at 14 other major Detroit war plants, Ford would have taken almost any constructive action which promised sustained output. The association assured us that a full contractual relationship would be accompanied by an end to the harassing interruptions to our war work.

(d) Another important consideration was the reiterated argument of association representatives that the organization could, with such a contract, serve as a valuable "assistant to management" and effect a better relationship among all groups in management.

Thus, Ford was led to take the final step. It granted to the association—with-out even the formality of a poll of foremen—recognition as bargaining agent.

Company officials had no mental reservations about their determination to make this agreement succeed. Accordingly, Ford's agreement with the association was complete and all-inclusive. A full-fledged grievance procedure, including the joint retention of an impartial umpire, was expected to cut off threats of strikes or strikes.

But there were still strikes and threats of strikes. There was a continuing series of harassing incidents in the plants. More importantly, the association relentlessly continued its efforts to drive a wedge between our foremen and the other members of our management team.

Quite simply, the company learned the hardest possible way that this relationship in which it had placed so much hope turned out to be incapable of doing the job. It was a failure, and proved the validity of the two historic objections to such relationships often voiced by those who have studied the supervisory union question. The first of these is:

SUPERVISORY UNIONS TEND TO DESTROY EFFECTIVE MANAGEMENT

The advocates of enforced recognition of supervisory unions concede that management is entitled to loyal representation, unsullied by conflicting interest. They concede that the vice presidents and plant managers alone cannot run the plants; that they must have reliable representatives to supervise the rank and file. They contend, however, that membership in a union does not jeopardize such loyalty. We know from rude experience that this is not true; we know that the pressures inherent in collective bargaining with a supervisory union inevitably lead to divided allegiance, irresponsibility, lowered morale, and a decrease in managerial efficiency.

We have learned that there is no such thing, for example, as a management union which is truly independent of organized rank-and-file workers in the same plant. From the early days of Ford's relationship with the Foremen's Association it was clear that the organization was beholden to the UAW-CIO, and that it regarded this as a natural and inevitable linking of arms.

In May 1943, Mr. Robert Keys, then president of the foremen's group, conferred with R. J. Thomas, then president of UAW-CIO. Thomas assured Keys that in the event a strike was called by the Foremen's Association, the association could expect the following instructions from UAW-CIO to its membership: UAW-CIO members would continue working, would not recognize foremen's picket lines, but would not take the jobs of any foremen while these foremen were out on strike.

The UAW respected this pledge during every walk-out of foremen from that time on, and in some cases UAW-CIO members went further and refused to cross Foremen's Association picket lines. Indeed, in 1947, we find the president of the association pleading with the UAW-CIO to join the association's strike against Ford.

The association was more than aware that its chance for success and survival rested to a very large extent on cooperation from the rank-and-file union. A natural result was a quick identification of interests, followed by a relaxation of discipline. The danger inherent in such reciprocal understandings was noted by a War Labor Board panel of public representatives in 1944:

"The Foremen's Association of America has asserted its determination to remain independent of rank-and-file organizations. The panel regards this in-

tention of the Foremen's Association as important because the panel does not believe that it is appropriate for supervisors, who are responsible for discipline, assignment of work, rate adjustments and promotions, who represent the employers in handling the grievances of rank-and-file workers, and who generally represent higher management in dealing with the rank-and-file workers, to be subject to discipline by a union which is controlled directly or indirectly by the men whom they supervise. The effectiveness of management requires that it have its own uncontrolled agents to represent it in dealing with the rank and file, just as the rank and file are entitled to have their own uncontrolled representatives for dealing with higher management."

There are all too many examples in Ford files of this inevitable conflict of loyalties. The association proclaimed many times that the organization was "part of the labor movement as a whole", and so it was inescapable that these conflicts should in almost every case find the association pulling the foremen toward the point of view of the rank-and-file union. Here is one such example:

In September 1946, a union foreman, who was short-handed, called on workers under him to vary their usual assignments for a short time. They refused, and the union foreman dropped the matter. Production began to lag, and a second foreman of higher rank stepped in and took disciplinary action. One of the disciplined workers, in the mistaken belief that the union foreman had taken this action, complained that it was not worthy of a "good union man." This foreman considered the workman's charge so serious that he went to the labor relations office to ask that his "name be cleared" of this charge. Instead, the company demoted him for placing union considerations before his job of leading the men under him. The Foremen's Association not only protested, but carried its protest through the entire grievance procedure to the impartial umpire.

This is a significant example because it epitomizes the habitual attitude of the association. The company, as a matter of policy, was trying then—as it is now—to place more and more responsibility upon its foremen; and the answer from the Foremen's Association was to reject and actively to oppose this policy.

The association even went so far on several occasions as to encourage and support foremen in countermanning company orders. On one occasion, in 1946, an association official working in our tool and die plant was told by a superior to determine whether groups of employees were making a practice of loafing away from their jobs in violation of rules. This association official instructed his fellowforemen not to comply with such an order, and refused to do so himself. The association threatened a strike when the company took disciplinary action.

In April 1947 the UAW-CIO ordered its members to leave their jobs to attend a mass labor rally in downtown Detroit. The company felt this to be a direct violation of the UAW-Ford contract and instructed foremen to notify the men accordingly. The president of the Ford chapter of the association countermanned these instructions. The association not only encouraged this unauthorized walk-out, but, in violation of its own contract, joined it. Over 1,000 of our foremen left their posts on this occasion. In doing so they not only exposed company property to damage, but, more importantly, placed a large number of unsupervised workers in unwarranted danger of physical injury.

In a bulletin to members on this occasion, the association declared again that they were "definitely part of the labor movement as a whole," and candidly told association members to "line up behind (UAW-CIO) Local 600" at the rally.

In June of 1945, UAW-CIO members at our Highland Park plant were engaged in an unauthorized work-stoppage in violation of contract. During the walk-out, certain UAW committeemen complained to the Foremen's Association representative that some of the foremen who remained on the job were working. Our agreement with the association recognized their obligation to work, but the association representative nevertheless went into the department and advised the foremen to stop working. As a result the department had to be shut down.

In Ford plants, UAW-CIO committeemen are paid by the company for time spent in handling the shop problems of their constituents. The UAW contract provides that committeemen shall engage in no other activity, and the National Labor Relations Act forbids our paying union representatives for time spent on strictly union business. The company had a similar arrangement with the Foremen's Association. There is a strong tendency among union committeemen to engage in prohibited union activities on company time, and among unions to condone these activities. The company necessarily must rely upon its foremen to prevent such abuses.

In August of 1946 representatives of the Foremen's Association were themselves spending such a large proportion of company time in collecting union

dues and soliciting membership that the company complained to the president of the Ford chapter of the association. He not only refused to correct the situation, but said that association committeemen would continue this activity. Obviously when Foremen Association committeemen themselves engage in such abuses, and in doing so are supported by the association itself, they are not inclined, nor are they in a position, to protect the company against similar abuses by rank-and-file union representatives.

Although it has its ethical aspects, the problem with which we are concerned is a most practical one. Good relationships between management and rank-and-file workers require fair but firm supervision and genuine respect by workers for their obligations to management.

The illustrations I have given show the basic contradiction between the foreman as a supervisor and the foreman as a good member of his union.

In passing, I would like to point out that during the first years of our experience with the association we also lost a record number of man-days through unauthorized walk-outs and strikes on the part of the rank-and-file. This could be coincidental; but we are convinced that there is more to it than that. There is considerable evidence that the lack of leadership and divided loyalties resulting from association activities were reflected in the irresponsible attitudes of the men whom they were expected to dissuade from such actions as illegal strikes.

I would like to turn now to the second major objection to supervisory unions which was so completely borne out in our experience with the Foremen's Association. The objection can be stated this way:

SUPERVISORY UNIONS FORECLOSE MERIT AND INITIATIVE BY THEIR RIGID INSISTENCE
ON SENIORITY IN DETERMINING PROMOTIONS AND DEMOTIONS

This question also was emphasized in the War Labor Board panel report mentioned above:

"The panel, however, believes that management should be left free to assess the relative weights to be accorded seniority, merit, and present or potential ability when lay-offs, demotions, and transfers of foremen are made."

In respect to promotions, the panel noted that its reasons for the foregoing conclusion "apply even more forcibly."

"The attachment of excessive weight to seniority in promotions would go far to reduce the drive to excel among the foremen and would limit the opportunity of men to forge ahead. Its effect upon the quality of management and upon the enterprise and efficiency of American industry would be unfortunate, if not disastrous. The effect of the rank and file would also be undesirable."

At Ford, seniority is always accorded great weight by management, but to make it conclusive would be disastrous. The association, at our insistence, agreed to a provision in the 1944 contract to the effect that seniority would prevail only in cases of equal ability. The association made frequent public reference to this provision as proof of its position that merit should prevail in the promotion or demotion of supervisors. But quite a different attitude was displayed when questions of promotion or demotion actually arose. The contract language meant very little in actual practice.

The association habitually challenged promotions or demotions made on the basis of merit. Forty percent of all grievances filed by the association were on this issue alone, and many of them were carried through all stages of the grievance procedure to the umpire. The association thus clogged the grievance procedure to assert this one point.

Simply stated, ability and seniority were almost always held to be synonymous by the association.

Here are a few excerpts from typical grievances filed by the association during this period:

"* * * Since the company has accepted Mr. Maitland's services as being satisfactory, making no effort at any time to show him as lacking ability, seniority should be the governing factor in the demotion."

"Consideration of reinstatement of foremen from the availability list who were demoted by reason of a reduction in force must be based on seniority alone."

"It is the association's contention that ability in the instant case is not a factor since the question of Mr. Moore's lack of it had never been discussed."

"* * * Since Mr. Pendracke has the greater length of service as a foreman in the department and since his removal as a foreman was not because of lack of ability or inefficiency, the company must reinstate him as per contractual obligation before Mr. Matievich."

In another case the association argued as usual that the aggrieved employee had been on the job for many years, and consequently must be presumed to have the required ability, so that his seniority entitled him to the position. It went on to say: "The association's position in the instant case is amply supported by precedent since an umpire ruling in a parallel case between the Ford Motor Co. and the CIO resulted in complete vindication of the union's argument. So much so, in fact, that the new contract between the company and the CIO incorporates a clause stipulating that in case of a reduction in force, demotions or lay-offs will be made on a strict seniority basis. The association sees no reason why this should not also apply where foremen are concerned."

Indeed, the continuous opposition of the association to promotions and demotions, except upon a strict seniority basis, led most higher supervisors to follow seniority save in the most extreme cases, in order to avoid friction and to "get along" with the association.

This insistence on the mechanical application of seniority was and is repugnant to all concepts of good management. It is a concrete denial of ability and of the natural urge of men to better themselves. Two members of the Ford policy committee, both vice presidents, are primarily responsible for production. Both men came from the ranks of foremen. Almost all of their subordinates followed the same route to their present positions. The future not only of Ford but of other companies depends upon the ability of management to recognize and preserve ability and reward merit quickly.

If a rigid rule of seniority is to prevail, this country might easily be deprived of the leadership and ability of men like William Knudsen, Walter P. Chrysler, Walter Gifford, and many others who have risen through the ranks.

The test constantly imposed upon American management is one of accountability—accountability for good products, reasonable prices, and fair and equitable treatment of its employees and of all other groups with whom it deals.

When a foremen's organization must be recognized, management is compelled to share its judgment in selecting the persons who actually run its plants and deal with its employees. This does not, however, relieve management from its complete accountability, which in the nature of things cannot be shared. The panel report referred to above deals cogently with this issue:

"The panel believes that great weight should be attached to the dependence of higher management on the competency of foremen. When the managers of an enterprise select foremen to whom they delegate authority and responsibility, they are not relieved of accountability for results. They are expected to pick competent men on whose good judgment and reliability the superior can depend. The panel calls attention to the fact that foremanships are to considerable extent the seedbed for higher management. Furthermore, the men who hold high positions in management are chosen in part for their skill in selecting and developing subordinates into an effective organization. They should be free within broad and reasonable limits to exercise these functions and to select and develop men for greater responsibilities."

The record is clear that the association strongly opposed any action by the company to improve the status or enhance the dignity of foremen, or to improve their ability to perform their jobs, except in collaboration with, and with the prior approval of, the association. Association officials opposed any system of merit increases, characterizing those who would receive them as "red-apple boys" and "company men." The theme of the association was that foremen were not, and would never be, a part of management; that they would always be "just foremen."

Meanwhile, Ford Motor Co. was making a genuine effort to work out successfully its agreement with the association. This assertion is supported by the testimony of Mr. Keys, president of the association, before the House and Senate Labor Committees in February 1947. He referred frequently to the "excellent relations" of his organization with Ford, and to the "efficient and cooperative manner in which the grievances of our members were handled by the Ford Motor Co."

But long prior to the expiration of the agreement, Ford realized the necessity of reviewing the whole situation in view of the highly unsatisfactory history of the past few years. This, and the militant stand taken by the association, led Ford, on April 8, 1947, to send a notice of its intention to terminate the agreement.

The association answered this notice by repeating its demand for the enlargement of its power to include bargaining representation for all foremen, including nonmembers of the organization; inclusion, without vote, of general foremen

and even some classes of superintendents; check-off of association dues and assessments; increased emphasis on seniority; and a number of fringe issues.

It will be noted that each of these demands was designed primarily to strengthen the hand of the association, not primarily to assist or help the individual foreman.

Accompanying these demands was a notification by the association of its intention to strike unless they were met.

The situation facing us in the spring of 1947 thus had many aspects:

(a) We did not want a strike.

(b) Experience had convinced us that a management union such as the association was unworkable unless a wholly new concept of its role could be agreed upon.

(c) In the Packard case the National Labor Relations Board had held, contrary to its Maryland Drydock decision, that management was obligated under the Wagner Act to bargain with supervisory unions.

(d) Ford Motor Co., through Mr. Henry Ford II, its president, was committed to an active program for the constant betterment of personnel relations throughout the organization.

On balance, and despite our discouraging 3 years, we finally concluded that the objectives of all parties concerned might best be served by extension of the existing agreement for another 12 months, if the association would agree not to interfere with the company's plans to draw foremen closer to other groups of management.

A letter to that end was sent, on May 15, 1947, to the foremen's association. It suggested no changes in the terms of the contract, but proposed, in the following language, a definite statement of objectives for any future relationship between the association and the company:

"We want foremen drawn closer to other groups of management, not divorced from them. Once a man sets his foot on the management ladder at Ford Motor Co., we want him to know our policies and programs; we want him to share our responsibilities and privileges; we want no artificial barrier put in his way if his ambition is to climb up that ladder in accordance with the value of his abilities, energy, and experience.

"We expect your wholehearted endorsement of these basic objectives.

"We have already started and will continue to develop vigorously a carefully planned program to achieve those objectives. Since our organization is large, the job is not easy. We may make mistakes, but we propose to keep on trying because we intend to succeed.

"We will expect from you assurance that the association will not interfere with this program. In this we ask good faith. Obviously, tacit agreement accompanied by constant sniping at our efforts would make a difficult job next to impossible."

Our proposal was rejected. On May 21, 1947, our foreman went out on strike.

Although the difficulties ahead were only too apparent, we decided to continue with production. During the strike, production was maintained nearly at schedule. This was due partially to the refusal of many foreman and other supervisors to join the strike and to the fact that others quickly returned to work. This was a strong demonstration of the loyalty of many of our foremen to the management team of which they were a part.

Several significant events occurred during the strike. Officials of the FAA publicly ordered its picketing members to "get tough," and violence, threats, and intimidation ensued. On June 23 the Taft-Hartley Act was enacted. Although it was not to become effective for 60 days, there can be no doubt that the act's removal of the legal obligation to bargain with supervisory unions had a direct and immediate effect on the strike. The FAA continued to appeal to UAW-CIO to support the strike, and the rank-and-file union cooperated by following the UAW-CIO policy referred to above. On July 2 Mr. Richard Leonard, then international UAW-CIO representative for the Ford department, offered his services as mediator.

A back-to-work movement by striking foremen was well under way, however, by July 1; and on July 3 the company announced it was formally withdrawing its recognition of the foremen's association.

By July 6 the strike, to all intents and purposes, was over. There was a tendency, particularly in the press, to herald the return to work as a "company victory." Technically I suppose it can be described in that way. True, the association had failed to attain a single objective. But as we went through the laborious job of straightening out our plants and patching together our production team, it seemed anything but a victory.

Rather, it crystalized our views on our long and patient experimentation with the foremen's association:

First, the notion is false that supervisors can be dependent upon a union and still retain a primary loyalty to the job of supervising men and operations.

Second, union intervention at the supervisory level tends in practice to transmute individual responsibility—the essence of efficient management—into mass irresponsibility.

Third, the insistence of the foremen's association—or any other supervisory union—on promotion and demotion according to seniority alone is repugnant to our concept of good management, and always will be.

Fourth, the "independence" of a supervisory union in a highly organized mass-production industry like the automobile business is a myth. There is an inevitable tendency in supervisory unions to ally their interests with the interests of unions of rank-and-file workers, a situation which is the antithesis of management responsibility.

Finally, the philosophy that guarantees the right of the rank and file to organize and choose their own representatives—with which we agree—cannot practically be applied to the supervisory group.

As a result of hard experience we reject the thesis that foremen can be "employees" for the purpose of mass bargaining with a company over wages and working conditions and yet be a part of management when supervising rank-and-file employees. A divided loyalty is as bad or worse than no loyalty at all.

I am aware that the records of this and other congressional committees contain a number of statement from officers of the foremen's association asserting the virtues and accomplishments of the organization, together with claims concerning the necessity for the right of foremen to organize. I am acquainted with most of these arguments.

Mr. Keys has declared, among other things, that FAA increased production, brought to a halt work stoppages by foremen, is "truly independent," and does not coordinate with rank-and-file unions. As I have indicated, our experience was decidedly otherwise.

Mr. Keys also asserted that supervisors are not actually part of management; and that foremen have no more voice or authority in today's large industries than the individual hourly rated employee. These statements are not true.

Since the conclusion of our relationship with the foremen's association we have felt free to go forward with our program of placing more responsibility on and authority in our foremen. This program is, we believe, essential to the continued success of the enterprise. Accordingly, we have made each foreman the manager of his own department. He now is engaged exclusively in the performance of management functions. Attached is appendix A containing the sheets from our supervisor's manual on which are set forth in detail the responsibilities of each classification of Ford plant supervisors. The number of ranks of supervision have been reduced substantially. The power to discipline their employees (as contrasted with mere recommendations as to discipline) is being returned to them.

The status and benefits accruing to the foreman's position have been increased commensurately. This has been a natural result of his increased authority and responsibility. For example, his salary status has been improved and he is eligible for merit increases; he takes part in periodic management meetings; he participates in a management development program; he assists in the development of and is kept informed concerning company policies and programs; and he is given assurance of proper recognition for increased efficiency, production, and good personnel management.

This program could not have been adopted while our foremen were unionized. Its adoption not only would have been impracticable, it would have been fruitless as well.

In summary: At Ford Motor Co. we are proud of the reputation we have for fair, honest, and progressive dealings with our employees. We want to continue to deserve that reputation. We know that we cannot work with a supervisory union toward that objective, and toward the much larger objective of sustained high production and low costs.

We at Ford have, since 1941, considered with earnestness and sincerity of purpose the question of supervisory unions, and we have tried to be fair in our appraisal. We have given the experiment a generous trial, and I think the record is one of patience and cooperation on our part. We feel that we are beyond theory or conjecture. The fact is that no amount of patience or effort can make an essentially unworkable arrangement work, and we know from actual experience that unionization of supervisors is unworkable.

We have, therefore, come to the conclusion that it would be most unwise to force supervisory unions upon American industry. The consequences, we firmly believe, would be serious and far-reaching. In the first place, hundreds of thousands of capable Americans might thus be deprived of their hope and right to move upward on the basis of merit to increasing responsibilities. But, more importantly, because it involves the American people as a whole, we think that production efficiency would be decreased. This would, of course, mean higher costs and prices and lower production. Thus, the result achieved would be directly contrary to that sought by Congress.

[From Supervisor's Manual, May 1948]

FOREMAN

FOREMAN'S RESPONSIBILITIES

Within the scope of his position, each foreman possesses the necessary authority to properly fulfill the following management functions and responsibilities.

A. To effectively direct the personnel functions of his working group, the foreman has responsibility for:

1. New employees.

(a) Requisitioning.

(b) Accepting.

(c) Rejecting unsatisfactory employees during probationary period.

(d) The general introduction to the department.

(e) Applying proper classifications and pay rates.

2. Applying company personnel policies, relating to labor agreements, employment, wage rates, employee conduct, safety, and other personnel activities.

3. Giving on-the-job training and instructions, or assigning other employees to do so.

4. The promotion or demotion of employees in accordance with company policies and labor agreements.

5. Handling grievances.

(a) Accepting complaints and grievances.

(b) Investigating oral complaints and written grievances.

(c) Adjusting complaints and grievances with employees, where possible.

(d) Consulting with general foreman or others, if required, before giving disposition.

(e) Representing management at grievance hearings if required.

6. Discipline.

(a) Instructing employees concerning improper actions including violations of plant rules and regulations pertaining to gambling, theft, assault, and all other violations.

(b) Warning or reprimanding employees about improper actions.

(c) Reporting violations requiring disciplinary action to labor relations department.

7. Granting leaves-of-absence, arranging vacation, holiday, and week-end schedules.

8. Safety.

(a) Issuing and enforcing instructions with regard to safety of the individual and preservation of company property.

(b) Using precautionary measures against unsafe conditions.

(c) Maintaining good housekeeping and safety practices.

(d) Continually practicing good safety.

B. To develop and maintain quality standards, the foreman has responsibility for:

1. Maintaining satisfactory quality of work (consulting with general foreman or others when necessary).

2. Recommending changes in specifications to improve quality standards.

C. To develop and maintain cost standards, the foreman has responsibility for:

1. Assisting in the establishing of work standards and then meeting them.

2. Assisting in the development of budgets and then meeting them.

3. Checking or reporting excessive use of labor material, tools, and service costs.

D. To maintain production schedules necessary for required production, the foreman has responsibility for:

1. Maintaining the required quantity of work.
2. Requisitioning and checking necessary materials, tools, jigs, fixtures, machines, and services.
3. Assigning employees to meet production schedules.
4. Requisitioning employees and authorizing overtime.
5. Recommending equipment lay-out changes.
6. Stocking adequate materials and small tools for following shift (maintain "floats").
7. Recording status of work and general conditions at end of shift. Making shortage reports.
8. Working with general foreman and other foremen on related production problems.

E. To utilize service departments effectively, the foreman has responsibility for:

1. Requesting services of engineering representatives for consultation concerning engineering problems.
2. Requesting services of industrial and labor relations representatives concerning company policies and labor agreements.
3. Requesting services of industrial engineering representatives concerning work standard problems.
4. Requesting services of production control representatives concerning production scheduling problems.
5. Requesting services of inspection representatives concerning quality problems.

F. To contribute to development of company and to broad over-all management policies, the foreman has responsibility for:

1. Developing or assisting in the development of improved methods, including facilities, equipment, tools, processes, and materials; reporting such changes to proper authorities.
2. Participating in discussions concerning the development or revision of plant and departmental procedures, policies, and practices.

G. The foreman performs such other duties as may be delegated, but no work of a similar nature to that of workers supervised except for emergency or training purposes.

GENERAL FOREMAN

GENERAL FOREMAN'S RESPONSIBILITIES

Within the scope of this position the general foreman has the authority and is charged with the execution of management functions and responsibilities as set forth below:

A. To effectively direct the personnel functions of his foremen, the general foreman has responsibility for:

1. Guiding and directing the methods exercised by foremen in selecting new employees.
2. Guiding and directing foremen in the administration of wage rates and other compensations consistent with approved company policies and labor agreements.
3. Coordinating the activities of foremen with various industrial relations departments in providing adequate foreman training programs.
4. Guiding and directing the activities of foremen with respect to promotions, demotions, and force increases or decreases consistent with company policies and labor agreements.
5. Reviewing foremen effectiveness in handling employee relations, oral complaints or written grievances.
6. Guiding and directing foremen in the maintenance of adequate disciplinary measures with respect to violation of plant rules of conduct including gambling, theft, and assault.
7. Reviewing and enforcing the effectiveness of safety instructions.
8. Observation and consideration of qualifications of personnel for selection as potential foremen.
9. Development and training of personnel selected as potential foremen.
10. Consideration and recommendation of his foremen for merit increases, promotions, or transfers.

B. To develop and maintain quality standards, the general foreman has responsibility for:

1. Guiding and directing foremen in the production of work in keeping with quality standards.

2. Directing and coordinating the activities of his foremen and others in charge of related activities in attaining the required quality standards.

C. To develop and maintain cost standards, the general foreman has responsibility for:

1. Guiding and directing foremen in developing work standards and meeting them.

2. Coordinating the activities of foremen and others in developing appropriate measures leading to the elimination of excessive costs.

D. To maintain production schedules necessary for attaining required production, the general foreman has responsibility for:

1. Guiding and directing foremen in the maintenance of production schedules as determined by production planning.

2. Guiding and directing foremen in the revision of work or force schedules to meet changes in production schedules or rush orders, including the authorization and assigning of overtime consistent with company policies.

3. Guiding and supervising foremen in the application of approved procedures to properly protect and maintain all production facilities.

E. To utilize service departments effectively, the general foreman has responsibility for:

1. Obtaining services of engineering representatives for consultation concerning engineering problems.

2. Obtaining services of industrial and labor relations representatives concerning company policies and labor agreements.

3. Obtaining services of production control representatives concerning production scheduling problems.

4. Obtaining services of inspection representatives concerning quality problems.

F. To contribute to the development of company policies, the general foreman has responsibility for:

1. Giving constant personal attention to development of practical ways and means of improving facilities, materials, practices and procedures in addition to guiding and supervising foremen in such activities.

2. Actively participating in discussion concerning the development or revision of plant and departmental procedures, policies, and practices.

G. The general foreman performs such other duties as may be delegated.

SUPERINTENDENT

SUPERINTENDENT'S RESPONSIBILITIES

Within the scope of this position the superintendent has the authority and is charged with the execution of management functions and responsibilities as set forth below:

A. To effectively direct the personnel functions of his general foremen and foremen, the superintendent has responsibility for:

1. Guiding and directing the methods exercised by general foremen (and foremen) in selecting new employees.

2. Guiding and directing general foremen (and foremen) in the administration of wage rates and other compensations consistent with approved company policies and labor agreements.

3. Coordinating the activities of general foremen, foremen, and industrial relations representatives for adequate foreman training.

4. Guiding and directing the activities of general foremen (and foremen) with respect to promotion, demotions, and force increases and decreases consistent with company policies and labor agreements.

5. Reviewing general foremen (and foremen) effectiveness in handling employee relations, oral complaints, or written grievances.

6. Guiding and directing general foremen (and foremen) in the maintenance of discipline and application of adequate disciplinary measures with respect to violation of plant rules of conduct including gambling, theft, and assault.

7. Reviewing and enforcing the effectiveness of safety instructions, programs, and policies.

8. Observation and consideration of qualifications of personnel for selection as potential members of supervision.

9. Development and training of personnel selected as potential members of supervision.

10. Consideration and recommendation of his general foremen (and foremen) for merit increases, promotions, or transfers.

B. To develop and maintain quality standards, the superintendent has responsibility for:

1. Exercising necessary measures to insure that general foremen are securing, through their respective foremen, adequate quality of workmanship.

2. Cooperation with superintendents of prior and following departments, production planning, and other staff activities concerned in coordinating the over-all effectiveness of the plant in producing quality products.

3. Consultation with superintendents and others of service department, such as maintenance, transportation, and inspection to develop methods of improving the quality of products.

C. To develop and maintain cost standards, the superintendent has responsibility for:

1. Exercising necessary measures to insure that general foremen (and foremen) are maintaining work standards.

2. Coordinating the activities of general foremen (and foremen) in developing appropriate measures leading to the elimination of excessive costs.

3. Cooperation with superintendents of prior and following departments, production planning, and other staff activities concerned in the elimination of excessive costs.

D. To schedule men, machines, materials, and tools for attaining required production, the superintendent has responsibility for:

1. Exercising necessary measures to insure that general foremen are securing, through their respective foremen, the required quantity of production.

2. Guiding and directing general foremen (and foremen) in revisions of work or force schedules which may be required to meet changes in production schedules, irregular work assignments, or rush orders.

3. Anticipatory planning of force requirements in reductions of, or additions to, production schedules.

4. Guiding and directing general foremen (and foremen) in authorizing and assigning overtime consistent with company policies.

5. Consulting with general foremen (and foremen) in the analysis of force scheduling practices with regard to improvement of production schedules.

6. Guiding and supervising general foremen (and foremen) in the application of approved procedures to properly protect and maintain all production facilities.

7. Directing and coordinating general foremen (and foremen) activities in arranging for emergency repairs and planning necessary maintenance and repairs with minimum interference to operations.

8. Cooperating with superintendents of prior or following departments, production planning, and other staff activities concerned with production schedules in the effectiveness of the plant in producing according to scheduled commitments.

E. To utilize service departments effectively, the superintendent has responsibility for:

1. Arranging for adequate service to insure proper execution within the department of approved policies, plans, procedures, and practices from the following plant departmental staffs:

- (a) Industrial relations.
- (b) Metallurgical and inspection.
- (c) Engineering.
- (d) Industrial engineering.
- (e) Construction and maintenance.
- (f) Accounting.
- (g) Others involved.

F. To contribute to the development of company and to broad over-all management policies the superintendent has responsibility for:

1. Giving constant personal attention to the development of practical ways and means of improving facilities, materials, practices, and procedures in addition to guiding and supervising general foremen (and foremen) in such activities.

2. Actively participating in discussions concerning the development or revision of plant and departmental procedures, policies, and practices with the component members of the management team.

G. The superintendent performs such other duties as may be delegated.

Mr. GOSSETT. I am William T. Gossett, vice president and general counsel of Ford Motor Co.

The single question which I would like to discuss today is one which we regard as of the greatest importance; that is whether the Federal Government should impose upon management, mandatory collective bargaining with unions of supervisors.

It is our conviction that it should not.

Ford Motor Co. not only has explored thoroughly the pro's and con's of unionization of foremen, it has submitted the idea to exhaustive test. The Foremen's Association of America was founded at Ford in 1941. We were the first company to give this union formal recognition and we bargained with it over a longer period of time than any other company.

Our conviction, therefore, is not based on speculation or theory; it is founded on years of experience with an organized group of supervisory workers.

The problem of supervisory unions is often characterized as a labor problem. This is a fundamental error. The question involved is, rather, the ability of management to perform its functions.

In November 1941, when Ford was first asked to consider this question, the company, in common with most of American industry, was rapidly expanding its labor force to meet national defense requirements. Many rank-and-file employees were suddenly promoted to foreman status. The company in mid-1941 had signed its first contract with the UAW-CIO. At the same time, the demands of the national emergency threw into bold relief management problems, many of them at the foreman level.

Therefore, when, late in 1941, the Foremen's Association asked the company to negotiate, it found an audience at Ford which was at least willing to listen to argument. The need was for a management team which could most efficiently tackle the big job ahead. When the Foremen's Association represented that it could help to solve this problem, the company decided to give it a trial. At that time Ford, of course, was under no compulsion to negotiate with the association.

By November 1943, when our original agreement expired, the company had been disillusioned. None of the results predicted by officials of the association had come to pass. The settlement of one basic difficulty had seemed to breed others in rapid succession. The association argued that the failures that had occurred were because the agreement did not go far enough; that establishment of a contract setting up detailed employment rules and a full-scale grievance procedure would be insurance against walk-outs and similar unpleasant incidents, and also would produce a more satisfactory relationship with the management of the company.

Hopefully, Ford gave way to these arguments, and took a very long stride in May of 1944. It granted to the Foremen's Association a contract containing virtually every demand made by the association. A year later the company went even further; it agreed to the appointment of an umpire for final decision on grievances.

Ford made a genuine effort to work out successfully its agreement with the association. This assertion is supported by the testimony of Mr. Keys, president of the association, before this committee and the House Labor Committee in February 1947. He referred frequently to the "excellent relations" of his organization with Ford and to the

"efficient and cooperative manner in which the grievances of his members were handled by the Ford Motor Co."

But in spite of the agreement there were still strikes and threats of strikes. There was a series of harassing incidents in the plants. More importantly, the association relentlessly engaged its efforts to drive a wedge between our foremen and the other members of our management team.

Quite simply the company learned the hardest possible way that this relationship in which it had placed so much hope turned out to be incapable of doing the job. It proved the validity of the two historic objections to such relationships often voiced by those who have studied the supervisory union question. The first of these is: Supervisory unions tend to destroy effective management.

The advocates of enforced recognition of supervisory unions concede that management is entitled to loyal representation, unsullied by conflicting interest. They concede that the vice presidents and plant managers alone cannot run the plants; that they must have reliable representatives to supervise the rank and file. They contend, however, that membership in a union does not jeopardize such loyalty. We know from rude experience that this is not true; we know that the pressures inherent in collective bargaining with a supervisory union inevitably lead to divided allegiance, irresponsibility, lowered morale, and a decrease in managerial efficiency.

We have learned that there is no such thing, for example, as a management union which is truly independent of the rank and file union in the same plant.

The association was more than aware that its chance for success and survival rested to a very large extent on cooperation from the rank-and-file union.

There are all too many examples in Ford files of this inevitable conflict of loyalties. Some of them are cited in the statement which I have filed with the committee. It was inescapable that these conflicts should in almost every case find the association pulling the foremen toward the point of view of the rank-and-file union.

For example, in April 1947 the UAW-CIO had scheduled a mass labor rally in downtown Detroit. In a bulletin to members, the Foremen's Association declared that they were "definitely part of the labor movement as a whole"——

Senator DONNELL. Mr. Gossett, pardon me. Is that the incident referred to here as one time in which the UAW-CIO ordered its members to leave the jobs to attend a mass rally?

Mr. GOSSETT. Yes, sir.

Senator DONNELL. It was a mass rally during the time of their work; is that right?

Mr. GOSSETT. Thank you very much for bringing that point out, sir. (Continuing.) And candidly told Association members to "line up behind UAW-CIO local 600" at the rally. As a result, more than a thousand of our foremen, in violation of contract, left their jobs, thus endangering both life and property, and joined the rally.

I would like to turn now to the second major objection to supervisory unions, which was so completely borne out by our experience with the Foremen's Association. The objection can be stated this way: Supervisory unions foreclose merit and initiative by their rigid insistence upon seniority in determining promotions and demotions.

At Ford seniority is always accorded great weight by management; but to make it conclusive would be disastrous. Therefore, the association, at our insistence, agreed to a provision in the 1944 contract to the effect that seniority would prevail only in cases of equal ability. The association made frequent reference to this provision as proof of its position that merit should prevail in the promotion or demotion of supervisors. But quite a different attitude was displayed when questions of promotion or demotion actually arose. The contract language meant very little in actual practice.

The association habitually challenged promotions or demotions made solely on the basis of merit. Forty percent of all grievances filed by the association were on this issue alone, and many of them were carried through all stages of the grievance procedure to the umpire. The association thus clogged the grievance procedure to assert this one point.

Simply stated, ability and seniority were almost always held to be synonymous by the association.

We feel very strongly about this point, because two members of the Ford policy committee, both vice presidents, are primarily responsible for production. Both men came from the ranks of foremen. Almost all of their subordinates followed the same route to their present positions. The future, not only of Ford but of other companies, depends upon the right of management to recognize and preserve ability and reward merit quickly.

The record is clear that the association strongly opposed any action by the company to improve the status or enhance the dignity of foremen, or to improve their ability to perform their jobs, except in collaboration with, and with the prior approval of, the association. Indeed, the theme of the association was that foremen were not, and would never be, a part of management; that they would always be "just foremen."

Thus, long prior to the expiration of the agreement, Ford realized the necessity of reviewing the whole situation in view of the highly unsatisfactory history of the past few years. This led Ford, on April 8, 1947, to send a notice of its intention to terminate the agreement.

The association answered this notice by repeating its demand for the enlargement of its power to include exclusive bargaining representation for all foremen, including nonmembers of the organization; inclusion, without vote, of general foremen and even some classes of superintendents; and other demands.

Accompanying these demands was a notification by the association of its intention to strike unless they were met.

The situation facing us in the spring of 1947 thus had many aspects:

(1) We did not want a strike.

(2) In the Packard case the Board had held, contrary to its Maryland Drydock decision, that management was obligated under the Wagner Act to bargain with supervisory unions.

Senator DONNELL. Pardon me. In the absence of Senator Taft, it has been made my duty to act as a member here on this side to examine you. I just call to your attention that I think the time of the presentation of your opening statement has expired, or approximately so. I did not take exact notice of it. I assume that the actual examination of Mr. Gossett will be tomorrow afternoon. That is correct, is it not?

Senator MURRAY. Tomorrow afternoon.

Senator DONNELL. Go right ahead, Mr. Gossett.

Mr. GOSSETT. Third. Ford Motor Co., through Mr. Henry Ford II, its president, was committed to an active program for the constant betterment of personnel relations throughout the organization.

I will abbreviate, if I may. On balance, and despite our discouraging 3 years, we finally concluded that the objectives of all parties concerned might best be served by extension of the existing agreement for another 12 months, if the association would agree not to interfere with the company's plans to draw foremen closer to other groups of management.

A letter to that end was sent, on May 15, 1947, to the foremen's association. It suggested no changes in the terms of the contract, but proposed a definite statement of objectives for any future relationship between the association and the company.

I shall not quote the letter except that I would like to summarize it by saying that it opposes conditions that the association would not stand in the way of the company in its desire to improve the status and enhance the dignity and improve generally the conditions under which foremen work. We asked that as a condition to renewing the contract, that the association not stand in our way, that they respect wholeheartedly our basic objections. That was our proposal, but it was rejected. On May 21, 1947, the association called a strike in an effort to gain the objectives of the association.

During the strike, production was maintained nearly at schedule. This was due partially to the refusal of many foremen and other supervisors to join the strike and to the fact that others quickly returned to work.

By July 6 the strike, to all intents and purposes, was over. There was a tendency, particularly in the press, to herald the return to work as a company victory. Technically I suppose it can be described in that way. True, the association had failed to attain a single objective. But as we went through the laborious job of straightening out our plants and patching together our production team, it seemed anything but a victory.

Rather, it crystallized our views on our long and patient experimentation with the foremen's association. These were our conclusions:

First, the notion is false that supervisors can be dependent upon a union and still retain a primary loyalty to the job of supervising men and operations.

Second, union intervention at the supervisory levels tends in practice to transmute individual responsibility—the essence of efficient management—into mass irresponsibility.

Third, the insistence of any supervisory union on promotion and demotion according to seniority alone is repugnant to our concept of good management, and always will be.

Fourth, the "independence" of a supervisory union in a highly-organized mass-production industry like the automobile business is a myth. There is an inevitable tendency in supervisory unions to ally their interests with the interests of unions of rank-and-file workers, a situation which is the antithesis of management responsibility.

As a result of hard experience we reject the thesis that foremen can be employees for the purpose of mass bargaining with a company over

wages and working conditions and yet be a part of management when supervising rank-and-file employees. A divided loyalty, we think, is as bad or worse than no loyalty at all.

At Ford Motor Co. we are proud of the reputation we have earned for fair, honest, and progressive dealings with our employees. We want to continue to deserve that reputation.

We at Ford have, since 1941, considered with earnestness and sincerity of purpose the question of supervisory unions and we have tried to be fair in our appraisal. We have given the experiment a generous trial, and I think the record is one of patience and cooperation on our part. We feel that we are beyond theory or conjecture. The fact is that no amount of patience or effort can make an essentially unworkable arrangement work; and we know from actual experience that unionization of supervisors is unworkable.

We have, therefore, come to the conclusion that it would be most unwise to force supervisory unions upon American industry. The consequences, we firmly believe, would be serious and far-reaching. In the first place, hundreds of thousands of capable Americans might thus be deprived of their hope and right to move upward on the basis of merit to increasing responsibilities. But, more importantly, because the American people as a whole are involved, we think that production efficiency would be decreased. This would of course mean higher costs and prices and lower production. Thus, the result achieved would be directly contrary to that sought by Congress.

Thank you.

Senator DONNELL. Mr. Chairman, I move the entire mimeographed statement together with the accompanying statement be incorporated in the record.

Senator MURRAY. I believe it is in the record.

The meeting will now recess until 9:30 tomorrow morning.

Senator MORSE. We will proceed with Mr. Gossett on Republican time tomorrow afternoon.

(Whereupon, at 5:35 p. m., an adjournment was taken until 9:30 a. m., Thursday, February 17, 1949.)

LABOR RELATIONS

THURSDAY, FEBRUARY 17, 1949

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D. C.

The committee met at 9:30 a. m., pursuant to adjournment, Hon. Elbert D. Thomas (chairman) presiding.

Present: Senator Thomas (chairman), Murray, Pepper, Hill, Neely, Douglas, Humphrey, Taft, Aiken, Smith of New Jersey, Morse, and Donnell.

The CHAIRMAN. The committee will be in order.

Mr. Brown, for the record, will you state your name, address, whom you represent, and any other information you want to have in the record about yourself?

STATEMENT OF CARL BROWN, PRESIDENT, FOREMAN'S ASSOCIATION OF AMERICA, ACCOMPANIED BY ALLAN ROSENBERG AND HARRY F. MORTON

Mr. BROWN. I am Carl Brown of Detroit, Mich., president of the Foreman's Association of America, a labor organization, unaffiliated, composed of supervisory employees. Our organization and other supervisory employee groups were on the receiving end of the hardest blows delivered by the Taft-Hartley Act. Therefore, we align ourselves with other organizations advocating repeal of the Taft-Hartley Act and the enactment of the Thomas bill, S. 249.

We are interested in the over-all labor legislative program, but as an organization we are mainly interested in one point, and that is to obtain for supervisory employees the same opportunities, privileges, and protection by law in our legitimate union activities as will be granted to other groups of employees under Federal law.

The CHAIRMAN. Mr. Brown, may I stop you for a minute? I think you have not given us quite enough information about your organization. You say it is unaffiliated. What we need is some kind of background as to how you came into existence. Have you that information in your statement?

Also were you ever members of labor unions, or was the Foreman's Association of America something out of the clear blue sky, and something which just happened?

Mr. BROWN. We were organized in 1941. That is when our organization began. It is composed entirely of supervisory employees. We are unaffiliated, strictly independent.

The CHAIRMAN. Are you confined entirely to one industry?

Mr. BROWN. No. I have that further on in my information here. We have chapters in automobiles, steel, electrical, rubber, textiles, utilities, and other industries.

The CHAIRMAN. How widely are you distributed geographically?

Mr. BROWN. We are in about 20 States, scattered around in various industrial localities, but we are principally located in the Great Lakes region.

The CHAIRMAN. Do you have just one union or chapters in each place?

Mr. BROWN. We are a national union with various chapters. Our chapters correspond to locals in other unions.

The CHAIRMAN. Would your chapter be a Detroit chapter or would it be a Ford Motor Co. chapter?

Mr. BROWN. No. The charter is issued to the foremen employed by each individual employer.

The CHAIRMAN. So that you would have as many chapters as there are industries that your organization is working in?

Mr. BROWN. No. Our chapters are not confined to industries. In automobiles, for instance, there may be 20 employers and there would be 20 chapters.

The CHAIRMAN. In the utilities if, for instance, you had a water department in the utility organization, you would have a chapter there; would you not?

Mr. BROWN. That is right.

The CHAIRMAN. And for street cars a different chapter?

Mr. BROWN. That is true.

The CHAIRMAN. So that your only interest is one of sentiment; is it?

Mr. BROWN. I don't believe I understand your question.

The CHAIRMAN. You have merely a sentimental interest. There is no court that would bind these different chapters together, is there—no vital interest that would hold them together?

Mr. BROWN. With the exception that we all belong to one national union. Each chapter handles its own affairs and has separate bylaws.

The CHAIRMAN. It is more sentimental that it is economic, isn't it?

Mr. BROWN. No; we are organized for economic purposes.

The CHAIRMAN. The problem must be very complex if you are divided into all those different chapters. The problem wouldn't be identical at any one time, would it, for any of you?

Mr. BROWN. There is a similarity of problem.

The CHAIRMAN. Of course, it is identical when your organization is outlawed. That, of course, brings an identity, but that is a unity that is forced on you from without.

Mr. BROWN. Well, the problems are very similar. Take, for instance, the problems of a foreman working for an employer making one make of automobile; they may be very similar to the problems involving an employer making another make of automobile.

The CHAIRMAN. Thank you.

Mr. BROWN. Prior to the enactment of the Wagner Act in 1935, supervisory employees were on an equal basis with other employees in respect to dealing with their employers on matters pertaining to their own conditions of employment, either individually or collectively.

Under the Wagner Act, it was finally determined by Supreme Court decision upholding a prior decision of the National Labor Relations Board, that supervisory employees represented by the Foreman's As-

sociation of America were employees within the meaning of the act, and as such were entitled to the same privileges and protection granted by that act to other groups of employees.

During the last few years under the Wagner Act, organized foremen made considerable progress by their collective efforts to improve their own conditions of employment. Foremen were successful in obtaining recognition from several employers and were able to negotiate contracts with their employers establishing practices beneficial to both parties.

With the enactment of the Taft-Hartley Act, the equality of the bargaining power between the employer and the foreman was destroyed, giving all of the advantages to the employer and leaving none to the foreman. By sanction of the Taft-Hartley Act, employers have wiped out most of the gains made by foremen under the Wagner Act, and most employers in mass-production industries are now imposing similar unreasonable conditions of employment upon their foremen as were imposed upon other groups of employees prior to enactment of the Wagner Act in 1935.

Foremen employed by 95 percent of the employers, subject to the provisions of the Taft-Hartley Act, can no longer enjoy full freedom of voluntary association for the purpose of improving their own economic welfare on the penalty of discharge or other discriminatory acts by employers.

However, a few of the more liberal-minded employers recognize our association as collective-bargaining agent for their foremen, and our relationship with those employers is considered good.

The CHAIRMAN. You mean you do have some organizations now in spite of the Taft-Hartley law?

Mr. BROWN. That is right. A few of the employers had recognized our association prior to the enactment of the Taft-Hartley Act and have continued to recognize our association. However, I will say this:

No employer subject to the provisions of the Taft-Hartley Act has recognized us since the passage of that act who did not recognize us before its passage.

I have submitted a brief that outlines the four major points that have been raised by employers objecting to the supervisory employees having the same rights as other employees.

Senator DOUGLAS. Mr. Brown, before you start on that, may I ask this: As I understand the situation, the Taft-Hartley law in section 2, paragraph 3, excluded supervisors from the definition of employees.

Mr. BROWN. That is correct.

Senator DOUGLAS. And, therefore, since they were excluded, they were removed from the protection which the Wagner Act threw around employees, and it now is possible for employers to discriminate against supervisors if they join a union or are active in union affairs; is that right?

Mr. BROWN. That is not only possible, but a practice at the present time.

Senator DOUGLAS. That is what I want to go into. Do you have cases where foremen have been discriminated against because of membership either in a union or in the Foreman's Association?

Mr. BROWN. Yes, I do. In fact, I have a few specific cases.

Senator DOUGLAS. I think it would be very helpful if you submitted those for the record.

The CHAIRMAN. Probably, Mr. Brown, you could organize those cases and put them into the record, as Senator Douglas has suggested.

Mr. BROWN. I could cite a couple of cases here which will only take a few minutes.

The CHAIRMAN. Very well.

Mr. BROWN. Up in the Westinghouse Electric Chapter, No. 215, in Springfield, Mass., we have a president, vice president, and five board members as officers of the chapter.

All foremen employed in that large plant of the Westinghouse Electric Co. received bonuses at Christmastime last year for the year 1948 averaging approximately \$400 per foreman, with the exception of seven foremen, the president of our chapter there, Ray Churchill; the vice president, Ray Mermet; and the five chapter executive board members, Sandy Spink, Tom Cooper, Jim Sullivan, Loren Tetreault, and Reno Bettini.

These seven foremen were informed by Mr. C. B. Dick, the works manager of that plant, that the seven foremen had disqualified themselves from receiving any bonus because of the activities in the Foreman's Association of America.

Up until the time of this discriminatory action by the company a top-heavy majority of the foremen employed in this plant were members of chapter No. 215, Foreman's Association of America. The bonus averaged approximately \$400 per year, but because of the activity of these seven men in the Foreman's Association of America, they were denied the bonus.

The CHAIRMAN. Were there other foremen in this organization besides those foremen?

Mr. BROWN. Yes; the majority of the foremen employed by the company were members, but these seven were officers of the chapter.

Early in 1948 at a membership meeting of chapter No. 215, the Westinghouse Electric Co. foremen decided to file a petition for certification of representation with the regional office of the National Labor Relations Board for the Springfield, Mass., area, in behalf of two groups of employees in the professional class within the meaning of the Taft-Hartley Act. Ray Churchill, president of the chapter, was instructed to file the petition.

Shortly after the petition was filed, the regional office of the Board notified the company of its intention to start proceedings on the case. Then an official of the company informed Mr. Churchill that he had until 5 p. m. the following day to withdraw the petition or be discharged. The petition was withdrawn.

I have another case.

The CHAIRMAN. Will you tell us about the notification of withdrawal? Was there an actual written statement sent to him or was it by word of mouth?

Mr. BROWN. There was no written statement.

The CHAIRMAN. He was just told?

Mr. BROWN. Just told to withdraw the petition before 5 o'clock the following day or he would be discharged.

The CHAIRMAN. Thank you.

Mr. BROWN. Another case involves chapter 279 of the Textileather Corp. in Toledo, Ohio.

The Foremen's Association of America was certified as bargaining agent for the supervisory employees employed by the Textileather

Corp., of Toledo, Ohio, in 1946, after winning by a substantial majority an election conducted by the National Labor Relations Board.

Sometime during the last half of 1948 a foreman was discharged for no reason known to himself or his fellow foremen. The foremen met on Sunday following the discharge and decided that a written request be forwarded to an official of the company requesting that he consent to meet the bargaining committee of the chapter to discuss the foreman's discharge. Mr. Luther Gordon, as president of chapter No. 279, was instructed to send the request.

Upon receipt of the request, the company also discharged Mr. Gordon after more than 20 years of service with the company.

Senator DOUGLAS. What was the name of the foreman?

Mr. BROWN. Luther Gordon.

Senator DOUGLAS. And the name of the company?

Mr. BROWN. Textileather Corp.

We have another case which involves the discharge of a foreman by the name of Wilton A. Herring, Memphis, Tenn., employed by the Ford Motor Co. I have also received from Mr. Herring a letter dated December 29, 1948. [Reading:]

DEAR MR. BROWN: Thanks for your News Letter of November 4, 1948. I am sure your resolute endeavors will bear the fruitful objectives which you mentioned in the News Letter. The foremen of America need proper representation.

I filed a grievance with the foremen's union in 1946. This grievance was refused in Memphis, but it was honored in Detroit.

Mr. B. W. Rose, assistant manager at Memphis at the time the grievance was filed, became obnoxious and hostile toward me because his decision was overruled by Detroit. He told me that I would lose more by having filed the grievance than I would gain by Detroit's decision.

Shortly after Detroit's decision, Mr. Rose became manager of the Memphis plant. From this time on it became harder and harder for me to run my job in the proper manner, due to obstacles put in my way by Mr. Rose.

This condition existed until October 27, 1948, at which time I was discharged without proper audience and a chance to disprove the fallacious charge for which I was discharged.

The other foremen at Memphis are aware of my treatment, but are prohibited from doing anything about it because of existing conditions at Memphis.

I feel sure this termination slip, which I am enclosing, will assist you in your efforts.

If possible, I would like to prohibit any other foreman from receiving the same unjustifiable treatment which I received. I must start from the bottom and build again at this late date. I have given Ford Motor Co. 24 years of faithful, sincere service.

Cordially,

WILTON A. HERRING.

The separation notice from the company reads in part:

Employed since September 22, 1924, as foreman at Memphis, Tenn.

The detailed explanation as to why he was discharged reads:

Unable to handle job satisfactorily.

After 24 years as a foreman!

We have other cases.

The CHAIRMAN. If you want to gather together your cases and submit them for the record, Mr. Brown, that will be all right.

Mr. BROWN. I will be glad to do that.

Senator MURRAY. Will you give the facts in connection with each case briefly, please.

Mr. BROWN. Yes.

(Mr. Brown subsequently submitted the material referred to as follows:)

The following additional cases of discrimination against supervisors since removal from protection under the Wagner Act are being submitted to follow volume 14, report of proceedings, hearing held before Committee of Labor and Public Welfare, S. 249, labor relations, morning session, February 17, 1949, end of page 3577, with permission of Senator Elbert D. Thomas.

Attached hereto is photostatic copy of Ford Motor Co. Form 6, revised September 3, 1948, entitled "Salaried Personnel Change in Status."

At the bottom of the reverse side of the form the section entitled "Employment Statement" reads in part as follows:

"I understand that my employment is not for any definite term, and may be terminated at any time without advance notice, by either myself or Ford Motor Co.; that my employment is subject to such rules, regulations, and personnel practices and policies, and changes therein, as Ford Motor Co. may from time to time adopt; and that my employment shall be subject to such lay-offs and my compensation to such adjustments as Ford Motor Co. may from time to time determine."

Ford Motor Co. foremen are convinced that the adoption of the above conditions of employment by the company was for the purpose of discouraging membership and activity in the Foremen's Association of America and therefore consider it to be a "yellow dog" contract.

FOREMEN DISCHARGED AT THE AGE OF 65 YEARS

Since the enactment of the Taft-Hartley Act the Ford Motor Co. has adopted a policy of discharging foremen upon reaching the age of 65 years, regardless of physical fitness—but no such rule applies to the rank-and-file workers who do manual labor under the foreman's supervision.

THE CASE OF CYRIL M'GUIRE

Mr. McGuire has been president of the Foreman's Association of America, Chapter No. 239, Youngstown Sheet & Tube Co., Youngstown, Ohio, since its formation in 1944.

During the last 3 years McGuire's associate foremen, doing the same or similar work, have received three increases in their salary—but McGuire has received no increase.

While no official of the company has told McGuire that the reason no increase in salary was granted was due to his membership and activity in the association, many foremen have told McGuire that officials of the company openly assert that his activity in the Foreman's Association is the reason why no increase was given to him.

EMPLOYER DISCHARGES 22 OF 25 FOREMEN EMPLOYED BY HIM

The Gerity-Michigan Die Castings Co. of Detroit, Mich., employed 25 foremen. All were members of Chapter No. 295, Foreman's Association of America, and the association was recognized as the bargaining agent prior to the enactment of the Taft-Hartley Act.

In December 1947 the company discharged Carl Wilhelm, who was president of Chapter No. 295, without any explanation—and within 3 months 21 of the remaining 24 members were discharged, and their jobs were taken over by new foremen, who were not members of our association.

THE CASE OF ELMER GAYDOSH

Elmer Gaydosh was employed for many years as a foreman by the Republic Steel Corp. of Youngstown, Ohio, and he was president of Chapter No. 266, Foreman's Association of America, where other foremen employed by the Republic Steel in Youngstown are members.

About the middle of 1948 Gaydosh was discharged by the Republic Steel Corp. No reason was given by the corporation for the discharge. However, at a chapter meeting shortly after Gaydosh was discharged, the foremen present were unanimous in the opinion that he was discharged because of his activity in the chapter.

Respectfully submitted.

CARL BROWN,
President, Foreman's Association of America.

Form 6
Rev. 9-3-41*Ford Motor Company*SEE REVERSE SIDE
FOR INSTRUCTIONS

A DATE PREPARED _____ SALARIED PERSONNEL
CHANGE IN STATUS DATE EFFECTIVE _____

NAME OF EMPLOYEE _____ (LAST) _____ (FIRST) _____ (INITIAL) _____ SOC. SEC. NO. _____

B PERSONNEL NUMBER _____ EMPLOYMENT _____ FORD SERV. DATE _____

HIRE ☐ RESUME ☐ REINSTATEMENT ☐ PAYROLL TRANSFER ☐ MALE ☐ FEMALE ☐ SINGLE ☐ MARRIED ☐ DATE OF BIRTH _____

LOCATION _____ STAFF OR OPERATION _____ DEPT. OR SECTION _____ NO. _____

CLASS N _____ CODE _____ EXEMPT ☐ NON EXEMPT ☐ MONTHLY SALARY \$ _____

HAS EMPLOYEE EVER { SERVED IN THE ARMED FORCES? YES ☐ NO ☐ WORKED WITH FORD MOTOR COMPANY YES ☐ NO ☐ IF YES GIVE FULL DETAILS UNDER "REMARKS" SECTION

ADDRESS _____ (NO.) _____ (STREET) _____ (CITY) _____ (ZONE) _____ (STATE) _____

C-1 TRANSFER ☐ CLASSIFICATION CHANGE ☐ SALARY ADJUSTMENT ☐

FROM C-1 LOCATION _____ STAFF OR OPERATION _____ DEPT. OR SECTION _____ NO. _____ CLASS N _____ CODE _____ EXEMPT ☐ NON EXEMPT ☐ MONTHLY SALARY \$ _____

TO C-2 LOCATION _____ STAFF OR OPERATION _____ DEPT. OR SECTION _____ NO. _____ CLASS N _____ CODE _____ EXEMPT ☐ NON EXEMPT ☐ MONTHLY SALARY \$ _____

C-3 PREVIOUS ADJUSTMENT (DATE) _____ INCREASE ☐ DECREASE ☐ \$ (AMT.) _____ NEW ADJUSTMENT INCREASE ☐ DECREASE ☐ \$ (AMT.) _____

D TERMINATION FOR USE OF SALARIED PERSONNEL DEPARTMENT

QUIT ☐ LAID OFF ☐ RELEASED ☐ DISCHARGED ☐ RETIRED ☐ DECEASED ☐ SAL. PAID THROUGH _____ LAST DAY WORKED _____

LOCATION _____ STAFF OR OPERATION _____ DEPT. OR SECTION _____ NO. _____

CLASS N _____ CODE _____ EXEMPT ☐ NON EXEMPT ☐ MONTHLY SALARY \$ _____

HAS EMPLOYEE BEEN NOTIFIED OF { SPECIFIC REASON FOR TERMINATION? YES ☐ NO ☐ TERMINATION TWO WEEKS IN ADVANCE? YES ☐ NO ☐ FORD SERVICE DATE _____

INDICATE UNDER "REMARKS" YOUR OPINION OF EMPLOYEE SPECIFIC REASON FOR TERMINATION AND WHETHER FUTURE EMPLOYMENT SHOULD BE CONSIDERED

ADDRESS _____ (NO.) _____ (STREET) _____ (CITY) _____ (ZONE) _____ (STATE) _____

E REMARKS _____

APPROVALS

F-1 RELEASING IMMEDIATE SUPERVISOR _____ AUTH. OFFICIAL _____

F-2 ACCEPTING IMMEDIATE SUPERVISOR _____ AUTH. OFFICIAL _____

F-3 SAL. PERS. _____ PAYROLL _____

FOR USE OF SALARIED PERSONNEL DEPARTMENT

21	24	27-28	29-30	31	32-33	34-35	36	37-38	39	40-41	42-43	44	45	46-47	48-51
DATE OF BIRTH		EMPLOYMENT DATE		HIRE		LOCATION		CODE		MONTHLY SALARY					
52-55	56	57-58	59	60-61	62	63	64-65	66-71	72	73-74	75-76	77-78	79-80	81-82	
AMT. OF NEW ADJ.		EFF. DATE OF NEW ADJ.		E-NE TY ADJ.		SAL. GR.		CLASSIFICATION NUMBER		LMT. ACCT.		EFF. DATE OF CHANGE		TY. OF CH.	

INSTRUCTIONS

The placement section of the salaried personnel department of the agency responsible for handling personnel transactions should initiate this form on employment.

Employment (initiate one copy. Completing secs. A, B, and appropriate section of F-3):

The immediate supervisor should initiate this form on transfer, classification change, salary adjustment, and termination. Any combination of transfer, classification change, or salary adjustment may be initiated in one transaction. It is important to check the type (or types) of action in the appropriate box (or boxes) when section C is used.

Personnel transactions involving transfer, classification change or salary adjustment should be submitted to the salaried personnel department 10 days prior to the effective date for the Lower Peninsula of Michigan; 20 days prior to the effective date in locations outside the Lower Peninsula of Michigan. The effective date on transfer, classification change, and salary adjustment should be on either the 1st or 16th of the month.

The specific reasons for all personnel transactions should be explained in detail under the "remarks" section of this form.

Transfer: Initiate two copies completing sections A, C-1, C-2, E, F-1, and F-2. (When transferring to the hourly pay roll initiate two copies completing secs. A, C-1, C-2 (location only), E, and F-1.)

NOTE.—When transferring to a new geographical location, complete section C-1 and "location" only under C-2: The placement section of the salaried personnel department or the agency responsible for handling personnel transactions in that location will complete section B.

Classification change: Initiate one copy, completing sections A, C-1, C-2, E, and F-2.

Salary adjustment: Initiate one copy, completing sections A, C-1, C-2, C-3, E, and F-2.

Termination: Initiate one copy, completing sections A, D, E, and F-1.

(For use of salaried personnel department)

EMPLOYMENT STATEMENT

I hereby authorize Ford Motor Co. to deduct from any moneys due or owing me the sum of \$3 for each identification pass, 50 cents for each tool check, 25 cents for each locker key, and the cost of any other equipment received by me while in its employ, which is lost or damaged, or which I fail to return in good condition (except for ordinary wear and tear in the course of business) upon demand.

I understand that my employment is not for any definite term, and may be terminated at any time, without advance notice, by either myself or Ford Motor Co.; that my employment is subject to such rules, regulations, and personnel practices and policies, and changes therein, as Ford Motor Co. may from time to time adopt; and that my employment shall be subject to such lay-offs, and my compensation to such adjustments, as Ford Motor Co. may from time to time determine.

I understand that medical information disclosed to the company's examining physician is not for treatment as a patient and is not privileged.

I elect to become subject to the provisions of the workman's compensation laws of the State of -----.

(Employee's signature)

Senator SMITH. Mr. Chairman, I note here Mr. Brown has filed a statement in answer to some testimony given by Mr. Gardiner, who was here recently, and I would like to ask permission to send this to Mr. Gardiner and, if he desires to make any comment on it, I would like the privilege of inserting Mr. Gardiner's comments in the record.

The CHAIRMAN. Has Mr. Brown's statement been put in the record?

Mr. BROWN. I haven't offered it, but I will later on.

Senator SMITH. I would like to have Mr. Gardiner given a chance to make his comments.

The CHAIRMAN. That request is in order and will be followed. If one statement goes in, the other is entitled to go in.

Mr. BROWN. I would like to comment on Mr. Gardiner's statement at this time, and before I do I would like to introduce Mr. Harry F. Morton, the industrial relations counsel of the Kaiser-Frazer Corp. With this company we are recognized in three of their plants. One plant is a small plant employing normally about 25 foremen and the second plant is a medium-sized plant employing approximately 150 foremen and the third plant is considered a large plant in industry employing normally 450 to 500 foremen.

In going through this statement here by Mr. Gardiner, if I may, any questions you may desire to direct to Mr. Morton I know he will cooperate by attempting to answer them.

Mr. Gardiner's comment in respect to foremen begins on page 7 of his brief. On line 2 we would substitute the word "supervisory" for "managerial."

We would add to the second part of the paragraph by stating that :

If it were humanly possible to do so, the general manager would perform all the manual labor without having one employee.

Beginning about the middle of page 7 of Mr. Gardiner's brief where he begins to specify what in his opinion are the detailed duties of a foreman, we differ in the following respects:

He says the foremen select and hire employees. This is the exception to the general rule, for the selection in the hiring of employees is generally done by the employment manager in the employment office, which foremen seldom enter.

Second among their duties is assignment of men to jobs. In this respect the area of a foreman's discretion is limited in the classifications of the men he supervises, and the classifications are determined by employer executives and the representatives of the rank and file union.

Third among the duties of foremen is instructing men in their job duties. We agree, although in some departments in mass-production industries, instructing new employees in their job duties is the responsibility of leaders who are in the bargaining unit of the rank and file workers.

Fourth among the duties of foremen as listed by Mr. Gardiner is imparting a knowledge of company policies and regulations. In most instances company policies are incorporated in the contract between the employer and the union representing the employees. Certainly rules and regulations are in practically all contracts.

Number 5 among the foremen's duties is planning and laying out the work. Only according to and within the scope of a predetermined production schedule by executives of the company who are not susceptible to unionization.

Number 6 among the duties of foremen is improving job methods. The foreman cannot select nor determine the kind of machines to be used in production nor can he determine just what methods will be used in the manufacture of a product. If the foreman should conceive an idea that would make the job more efficient, he would first have to get the approval of his superiors before putting his idea into operation. The same procedure applies to workers supervised by the foremen.

Number 7 on the list is the getting from employees of an hour's work for an hour's pay. In mass-production industries generally the number of pieces produced per hour by each workman is determined by the employer and the union representing the workman through joint-time studies. The foreman is not vested with the authority to change the number of pieces to be produced by the worker.

No. 8 is controlling the cost items in getting work done. On production jobs the work cost per piece is largely determined through the time-study process in which the foreman seldom has any voice. In the matter of nonproduction work such as maintenance, material handling, et cetera, the foreman cannot determine the cost. For instance, a boxcar load of bolts is shoved on the employer's property to be unloaded. The foreman in charge of the unloading crew cannot determine prior to unloading the car whether or not it is going to cost \$50 or \$100. He can only lead his crew, and not drive them.

No. 9 among the duties of the foreman is maintaining the quality of work. While the foreman is very much interested in quality work, the inspection department generally determines whether or not a product manufactured is suitable for sale or to be scrapped. In fact, in some industries inspectors working under the jurisdiction of an inspection foreman have the authority to shut down a job supervised by a production foreman.

No. 10 is conserving materials and supplies. We agree, and it is the duty of all employees.

No. 11 is administering the wage plan. This statement is not true nor applicable to the mass-production industries of this Nation employing 90 percent of the workers and foremen. The wages paid to workers are determined by the employer and the union representing the workers. The foreman has no authority to change the wages of any worker's classification.

No. 12 among the duties as described by Mr. Gardiner is determining the work load for employees. This function is not determined by the foreman on production jobs as a rule, but is determined through the process of joint time study between the employer, time study department, and the union representing the workers. The amount of production to be produced within a definite period of time is determined by the scheduling department, and the foreman has no authority to change the schedule furnished to him without the approval of an official of the company not susceptible to unionization.

No. 13 among the duties as stated by Mr. Gardiner is preventing accidents and work injuries. While it is to the best interests of the employer, the foremen and the workers alike, to prevent accidents and work injuries, most employers maintain a safety department in which the rules for preventing accidents and work injuries are determined, and in numerous cases are incorporated in the contract between the employer and the union representing his workers. The foreman has no authority to alter safety rules established by the safety department or those contained in the agreement between the employer and the union representing his workers.

No. 14 among the duties of foremen, as stated by Mr. Gardiner, is enforcing rules and standards. Once the rules under which the workers work and the standards of production are set by agreement between the employer and the union representing his workers, the foreman becomes the "traffic cop" to see that the rules are adhered to and the standards of production maintained without authority to change either the rules or the standards.

No. 15 among the duties of foremen as stated by Mr. Gardiner is helping to formulate regulations and policies. These functions are performed by executives of a company who are not susceptible to unionization. Foremen do not formulate employer policy.

No. 16 is maintaining discipline among workers. The foreman has little or no discretionary authority in disciplining workers, for practically all disciplinary action to be meted out to workers for violation of company rules or misconduct are determined by agreement between the employer and the union representing his workers. Again the foreman becomes a traffic cop enforcing rules in which he had no part in establishing and no authority to change them.

No. 17 among the duties as stated by Mr. Gardiner is adjusting grievances. Practically all contracts covering grievance procedure

between employers and the unions representing his workers provide that the foreman will act in the first step or stage in the grievance procedure. However, if the aggrieved employee is not satisfied with the foreman's predetermined answer according to the contract, the aggrieved employee may invoke succeeding steps in the grievance procedure, and the final answer may be given by the personnel director of the company, which may or may not reverse the initial decision by the foreman. In any event, his area of discretion is predetermined by the employer and the union representing the workers.

The next paragraph on page 8 following the listing of job duties implies that a foreman is responsible for all the elements and problems which confront the manager of a business within a business. The implication is greatly exaggerated, for the manager of an independent business is responsible for the purchase of merchandise, the product to be manufactured, the shape, form, or size of the product to be manufactured, establishes the wages, hours, and other conditions of employment by mutual agreement with the union representing his employees, determines how many pieces or units will be manufactured, and determines the number of employees to be employed. None of these essential functions is vested in the authority of the foreman. The foreman is not responsible for any investment in equipment, nor work space, nor material and labor as contended by Mr. Gardiner.

The succeeding paragraph of Mr. Gardiner's brief is also greatly exaggerated. The foreman is told what he can and cannot do, and cannot change established policy nor procedure without the approval of his superiors who are not susceptible to unionization. The foreman cannot exercise his judgment to the extent that it would change established work methods; therefore, it cannot greatly affect his department and certainly not the entire business.

The assertion that his ability to develop an efficient, cooperative work force will determine the success or failure of this business within a business will do one of two things. It will aid in building up the employer's profits, or lessen the cost of the product whereby it may be marketed more cheaply, but it certainly will not determine the success or failure of this business within a business, for no employer will for any great period of time leave an inefficient foreman on the job.

I would like to state, Mr. Chairman, that the word "efficient," on page 6 of my statement in line 14, should be changed to the word "inefficient."

In connection with the next paragraph of Mr. Gardiner's statement with respect to foremen, the foreman's functions are not even closely related to that of the general manager for reasons stated in the answers in the above paragraph.

The following paragraph from Mr. Gardiner's brief on page 9, in the first line again it would be more accurate to substitute the word "supervisory" for the word "managerial."

In the last four lines of this paragraph the foreman is cast in a dual role of being a part of management and the direct representative of management, in which there is a vast difference, for management formulates policy, determines policy, and the representative of management carries out orders handed to him by management in respect to the workers he supervises.

The CHAIRMAN. Mr. Brown, I think you had better leave the rest of that statement for the record because you have already run over the 10 minutes, and some of the Senators will be deprived of an opportunity to ask questions.

I believe we had better start questioning now.

Mr. BROWN. Mr. Chairman, I would then like to have incorporated in the record the statement entitled "The Position of Foreman's Association of America in Reply to Testimony Given to Senate Committee on Labor and Public Welfare on February 14, 1949, by Glenn Gardiner, President, New Jersey State Chamber of Commerce; Vice President, Forstmann Woolen Co., Passaic, N. J., Dated February 9, 1949."

The CHAIRMAN. The ruling has already been made that that is to be inserted.

Senator SMITH. I understand, Mr. Chairman, Mr. Glenn Gardiner will be given the opportunity to reply.

The CHAIRMAN. That was agreed to before. If you get what you want inserted in the record, then we will turn you over for questions, Mr. Brown.

Mr. BROWN. I would also like to insert the statement entitled "How the Foreman's Position in Industry Compares With That of Professional Employees."

The CHAIRMAN. That will be inserted in the record.

Mr. BROWN. I would also like to insert in the record the statement entitled "Statement of the Position by the Foreman's Association of America in Respect to Pending Labor Legislation."

The CHAIRMAN. Very well, that will be inserted in the record.

(The three documents described follow:)

THE POSITION OF FOREMAN'S ASSOCIATION OF AMERICA IN REPLY TO TESTIMONY GIVEN TO SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE ON FEBRUARY 14, 1949, BY GLENN GARDINER, PRESIDENT, NEW JERSEY STATE CHAMBER OF COMMERCE; VICE PRESIDENT, FORSTMANN WOOLEN CO., PASSAIC, N. J., DATED FEBRUARY 9, 1949

Mr. Gardiner's reference to the status of foremen begins on page 7 of his brief. On line 2, we would substitute the word "supervisory" for "managerial." We would add to the second part of the paragraph by stating that "if it were humanly possible to do so, the general manager would perform all the manual labor without having one employee."

Beginning about the middle of page 7 of Mr. Gardiner's brief, where he begins to specify what, in his opinion, are the detailed duties of a foreman, we differ in the following respects:

1. Selection and hiring of employees: This is the exception to the general rule, for the selection in the hiring of employees is generally done by the employment manager in the employment office, which foremen seldom enter.

2. Assignment of men to jobs: In this respect the area of a foreman's discretion is limited in the classifications of the men he supervises, and the classifications are determined by employer executives and the representatives of the rank-and-file union.

3. Instructing men in their job duties: We agree, although in some departments in mass-production industries, instructing new employees in their job duties is the responsibility of leaders who are in the bargaining unit of the rank-and-file workers.

4. Imparting a knowledge of company policies and regulations: In most instances company policies are incorporated in the contract between the employer and the union representing the employees. Certainly rules and regulations are in practically all contracts.

5. Planning and laying out work: Only according to and within the scope of a predetermined production schedule by executives of the company, who are not susceptible to unionization.

6. Improving job methods: The foreman cannot select nor determine the kind of machines to be used in production nor can he determine just what methods will be used in the manufacture of a product. If the foreman should conceive an idea that would make the job more efficient, he would first have to get the approval of his superiors before putting his idea into operation. The same procedure applies to workers supervised by the foreman.

7. Getting from employees an hour's work for an hour's pay: In mass-production industries generally the number of pieces produced per hour by each workman is determined by the employer and the union representing the workman joint time study. The foreman is not vested with the authority to change the number of pieces to be produced by the worker.

8. Controlling the cost items in getting work done: On production jobs the work cost per piece is largely determined through the time-study process in which the foreman seldom has any voice. In the matter of nonproduction work such as maintenance, material handling, etc., the foreman cannot determine the cost. For instance, a boxcar load of bolts is shoved on the employer's property to be unloaded. The foreman in charge of the unloading crew cannot determine prior to unloading the car whether or not it is going to cost \$50 or \$100. He can only lead his crew and not drive them.

9. Maintaining the quality of work: While the foreman is very much interested in quality work, the inspection department generally determines whether or not a product manufactured is suitable for sale or to be scrapped. In fact, in some industries inspectors working under the jurisdiction of an inspection foreman have the authority to shut down a job supervised by a production foreman.

10. Conserving material and supplies: We agree; and it is the duty of all employees.

11. Administering the wage plan: This statement is not true nor applicable to the mass-production industries of this Nation employing 90 percent of the workers and foremen. The wages paid to workers are determined by the employer and the union representing the workers. The foreman has no authority to change the wages of any worker's classification.

12. Determining the work load for employees: This function is not determined by the foreman on production jobs as a rule, but is determined through the process of joint time study between the employer, time study department, and the union representing the workers. The amount of production to be produced within a definite period of time is determined by the scheduling department, and the foreman has no authority to change the schedule furnished to him without the approval of an official of the company not susceptible to unionization.

13. Preventing accidents and work injuries: While it is to the best interests of the employer, the foreman, and the workers alike to prevent accidents and work injuries, most employers maintain a safety department in which the rules for preventing accidents and work injuries are determined, and in numerous cases are incorporated in the contract between the employer and the union representing his workers. The foreman has no authority to alter safety rules established by the safety department or those contained in the agreement between the employer and the union representing his workers.

14. Enforcing rules and standards: Once the rules under which the workers work and the standards of production are set by agreement between the employer and the union representing his workers, the foreman becomes the "traffic cop" to see that the rules are adhered to and the standards of production maintained without authority to change either the rules or the standards.

15. Helping to formulate regulations and policies: These functions are performed by executives of a company who are not susceptible to unionization. Foremen do not formulate employer policy.

16. Maintaining discipline among workers: The foreman has little or no discretionary authority in disciplining workers, for practically all disciplinary action to be meted out to workers for violation of company rules or misconduct are determined by agreement between the employer and the union representing his workers. Again the foreman becomes a "traffic cop," enforcing rules in which he had no part in establishing and no authority to change them.

17. Adjusting grievances: Practically all contracts covering grievance procedure between employers and the unions representing his workers provide that the foremen will act in the first step or stage in the grievance procedure. However, if the aggrieved employee is not satisfied with the foreman's predetermined answer according to the contract, the aggrieved employee may invoke succeeding steps in the grievance procedure, and the final answer may be given by the per-

sonnel director of the company which may or may not reverse the initial decision by the foreman. In any event, his area of discretion is predetermined by the employer and the union representing the workers.

The next paragraph on page 8 following the listing of job duties implies that a foreman is responsible for all the elements and problems which confront the manager of a "business within a business." The implication is greatly exaggerated, for the manager of an independent business is responsible for the purchase of merchandise, the product to be manufactured, the shape, form, or size of the product to be manufactured, establishes the wages, hours, and other conditions of employment by mutual agreement with the union representing his employees, determines how many pieces or units will be manufactured, and determines the number of employees to be employed. None of these essential functions are invested in the authority of the foreman. The foreman is not responsible for any investment in equipment, nor work space, nor material and labor, as contended by Mr. Gardiner.

The next paragraph is greatly exaggerated. The foreman is told what he can and cannot do, and cannot change established policy nor procedure without the approval of superiors who are not susceptible to unionization. The foreman cannot exercise his judgment to the extent that it would change established work methods; therefore, it cannot greatly affect his department, and certainly not the entire business. The assertion that his ability to develop an efficient, cooperative work force will determine the success or failure of this "business within a business" will do one of two things—will aid in building up the employer's profits or lessen the cost of the product whereby it may be marketed cheaper, but it certainly will not determine the success or failure of this "business within a business," for no employer will for any great period of time leave an inefficient foreman on the job.

In connection with the next paragraph, the foreman's functions are not even closely related to that of the general manager for reasons stated in the answers in the above paragraph.

In the succeeding paragraph on page 9 in the first line, again it would be more accurate to substitute the word "supervisory" for "managerial." In the last four lines of this paragraph the foreman is cast in a dual role of being a part of management and the direct representative of management, in which there is a vast difference, for management formulates policy, determines policy, and the representative of management carries out orders handed to him by management in respect to workers he supervises.

Maryland Drydock case.

Board's decision in Packard case.

Justice Douglas' dissenting opinion in Packard case.

Justice Jackson's majority opinion in Packard case.

Page 10 of the brief defines the word "employee," defines the term "supervisor," quotes section 14 (a) of the act, and in Mr. Gardiner's comments following the quotation of section 14 (a) of the act he could have stated truthfully that the effect of section 14 (a) in operation has been to greatly restrict foremen in their constitutional right to free and voluntary association, for foremen can no longer meet freely as an organization for the purpose of endeavoring to better their economic lot without fear of reprisals from their employers.

On page 11, Mr. Gardiner recommends that the same restrictions against foremen in the Labor-Management Relations Act of 1947 be retained and made a part of any new labor law for three reasons:

1. He claims they are part of management and their own best interests are served by retaining this relationship rather than attempting to operate through collective bargaining. To this we reply: "Were the best interests of the Negro served while he was held in bondage and subjugation or after he was free? Would the best interest of the 2,000,000 supervisors of this Nation and their families be best served by continuing to grant to employers the right to determine the hours, wages, and other conditions of employment without any voice or vote from the foreman?"

2. Again we assert that foremen are agents of management rather than part of management. We do not ask the Congress to confer on us the status and standing of rank and file workers, but we do ask that we be accorded the same opportunities, privileges and protection under Federal labor law as will be granted to other employees, and such concession will not be detrimental to the best interests of rank and file workers, or policy-making management, or the consumer public.

3. With respect to this point, the assertion is true under the Taft-Hartley Act, for no foreman employed by a hostile employer dare not show an inclination of his desire to form or aid in forming an association among his fellow foremen for the purpose of advancing the economic lot of supervisors, because of his fear of reprisals by his employer. We agree that foremen throughout the years have clearly demonstrated that they desire to perform to the best of their ability the task assigned them by management, but the foremen who desire and are in need of association are as far removed from the management team as a major league baseball club and its class D farm club.

Respectfully submitted,

CARL BROWN, *President,*
Foreman's Association of America.

HOW THE FOREMAN'S POSITION IN INDUSTRY COMPARES WITH THAT OF PROFESSIONAL EMPLOYEES

AND THE RELATIVE POSITION OF FOREMEN IN INDUSTRY BY THE FOREMAN'S ASSOCIATION OF AMERICA

(Excerpts from the statement to Senate Committee on Labor and Public Welfare by a panel of representatives of Professional Engineering Societies relative to S. 249. Presented February 14, 1949, dated February 9, 1949.)

The first paragraph of the professional employees' brief states that the several engineering societies represented on this panel are national professional organizations, and that membership includes both employers and employees.

The third paragraph on page 1 of the societies' brief defines the term "professional employee," and the definition is the same as contained in section 2 (12) (a) of the Labor Management Relations Act of 1947.

The last paragraph on page 1 of the brief quotes section 9 (b), Labor Management Relations Act, and the first four lines of this paragraph provide for the unit appropriate for the purposes of collective bargaining and reads as follows:

"The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof."

The last sentence in paragraph 3 on page 2 of the brief reads as follows:

"Under the present law, with statutory protection of the rights of professional employees, there has been a distinct trend away from such unsatisfactory conditions and it is fair to say that we are well on the way toward complete abolishment of the confusion and distress that existed among professional employees under the earlier law."

Paragraph 4 on page 2 of the brief names the titles of some of the employees included within the professional group such as engineers, architects, and scientists employed on a full-time basis. These professionally trained and professionally minded employees come within the coverage of the labor laws. It is common knowledge throughout industry that professional engineers, architects, and scientists are more appropriately a part of the management team than are supervisors. Their conditions of employment are not regimented like that of supervisors. Their rate of pay is higher than that of foremen prone to union organization—yet foremen are denied coverage of the labor laws.

The sixth paragraph on page 2 of the brief reads as follows:

"A fundamental difficulty with the Wagner Act as it affected professional employees, was that no distinction was made between professional and non-professional employees in spite of the facts that their viewpoints and abilities are inherently different and that their conditions of employment cannot be made subject to a common standard."

We agree with this statement, however, foremen's jobs are standardized, yet they are denied the same protection professional employees have under the Taft-Hartley Act. The last paragraph on page 2 reads as follows:

"Professional service, even though rendered by an employee, is predominantly intellectual and varied in character. Constant demand exists for originality and creative thought in the solution of problems presented with each new undertaking. Technical skill is only a part of the equipment of a professional person. There is no yardstick by which creative ability can be measured. Indi-

vidual talents vary and every person possessing a professional attitude constantly strives to expand his knowledge and improve his abilities in his chosen field to the end of personal excellence, personal advancement, and the betterment of his profession. Strict regimentation of professional employees is incompatible with the maintenance of true professional standards."

We are in complete agreement with this statement for strict regimentation of professional employees is incompatible with the maintenance of true professional standards. Therefore, the position of most professional employees is on a higher level than that of foremen whose job duties are to a great degree standardized.

Paragraph 2 on page 3 of the brief reads as follows:

"To attempt application of the same standard of measurement for services of professional men and nonprofessional men is not in the public interest. The output of professional employees cannot be standardized as can that of manual and skilled labor. It cannot be measured in terms such as the number of brick a man should lay in a given number of hours, the number of cubic yards of dirt that should be moved, the square yards of painting, the amount of type to be set, bolts to be placed, feet of conduit to be laid, or in terms of any other similar unit."

This clearly shows that the professional employees enjoy a greater latitude of discretion and prerogatives in respect to hours worked and shop privileges than the foreman whose area of discretion is blueprinted and latitude confined to his division or department.

Paragraph 3 on page 3 of the brief reads as follows:

"The productive output of the professional man is largely that of his mind, while that of the nonprofessional depends largely on his manual skill and dexterity. No law by which professional employees and those engaged in routine, mental, mechanical, and physical work must conform to the same regulatory pattern is a just law. It is unjust alike to the laborer, to the nonprofessional white-collar workers, to the professional man, to their employers, and to society."

This again points out that professional employees' work is not regimented like that of the foremen—yet foremen are denied the protection under labor laws granted to professional employees.

The succeeding paragraph on page 3 reads as follows:

"In spite of all this, prior to enactment of the present law, professional employees often were included against their will in heterogeneous groups and compelled to accept representation which they did not desire in collective-bargaining procedure. The results were most unsatisfactory. There was serious effect on the morale of professional employees and generally poor relationships developed between those employees and labor unions and employers."

Even professional employee groups recognize the regulatory pattern of the nonprofessional worker and the foreman.

The sixth paragraph on page 3 reads as follows:

"We accept the principle of collective bargaining as a right of employees, professional and nonprofessional, but we firmly believe that there should not be any submergence of the desires and interests of professional employees. The background, education, training, and work interests of professional employees and nonprofessional employees are inherently divergent. It is futile to expect that a forced grouping of the professional and nonprofessional employees in any plant or organization could possibly form an "appropriate bargaining unit." Under the old law and its administration, such plainly inappropriate groupings were made and, by fiat, were declared appropriate. We do not consider that to have been the intent of Congress."

The background, education, training, and work interest of professional employees and nonprofessional employees are inherently divergent. This statement is self-evident, and points up the high qualifications a professional employee must have in order to qualify as such. No such high qualifications are required of the foreman.

Paragraph 1 on page 4 reads as follows:

"One of the first cases decided by the NLRB was *Matter of Chrysler Corporation* (1 N. L. R. B. 164) wherein, in referring to design engineers, the Board said: "It is true that this work requires a considerable degree of skill and more or less imagination. There is nothing, however, peculiarly personal in the relationship between the Company and its many hundreds of engineers. They are in no sense executives. The engineers have need of organized strength in common with all wage earners." [Emphasis supplied.]

This paragraph refers to design engineers, and the National Labor Relations Board found that those engineers have need of organized strength in common with wage earners, and found that they are in no sense executives. Yet it is common knowledge in the industrial field that working conditions of design engineers are at least on a par and generally above those of foremen, and are more closely related to the management team than our supervisors. The rate of pay for design engineers is higher than that paid to foremen.

Paragraph 3 on page 4 reads as follows:

"In *Black and Decker Electric Company* (47 N. L. R. B. 726) the following unit was prescribed: "Employees in the accounting, cashiers, pay-roll, cost, sales, service, production, material control, purchasing, personnel, stores, receiving, shipping, experimental, *mechanical engineering, and tool and processing engineering departments*." [Emphasis supplied.]

The mechanical engineer in most industries is not prone to unionization, and in many plants foremen work under the jurisdiction of the mechanical engineer—yet the engineer is considered a professional employee and as such is entitled to the benefits and protection of the present labor law, and the tool processor's job duties and the rate of pay and general working conditions are on a par with that of a foreman, but the foreman is denied protection under the act.

The eighth paragraph on page 4 of the brief reads as follows:

"The early cases also illustrate the difficulty which confronted the Board in attempting to apply standards for classifying professional employees. The original act contained nothing in the way of definition and the various concepts of professionalism naturally had no firm basis. Without a statutory guide, the application of standards for determining professional status wavered according to the individual concepts of the Board member or the examiner and left the professional public in a constant state of uncertainty."

This paragraph illustrates the difficulty which confronted the Board in applying the Wagner Act to professional employees. The same is true with respect to supervisory employees until the Supreme Court decision in the Packard case in March of 1947 which upheld the Board's decision in applying the act to supervisors.

Paragraph 5 on page 5 of the brief reads as follows:

"Any misapprehension that the professional sections would be used to deny collective-bargaining rights to professional employees was dispelled by the Board in the *Lumberman's Mutual Casualty Co. of Chicago* case (75 N. L. R. B. 1132) wherein the Board rejected the argument of the employer that a number of attorneys involved were not employees within the meaning of the act because they were professional employees. The Board's opinion clearly stated the opposite principle to be true, stating: 'We are of the opinion, therefore, that the mere fact that the attorneys are professional personnel does not preclude them from being employees within the meaning of the act, and entitled to its benefits, and we reject the employer's contention in this respect.' Later in the opinion the Board stated: 'That the attorneys have a statutory right to self-organization cannot be denied. If doubt ever existed, it has been removed by the * * * act * * * which defines "professional employees".'

This paragraph clearly shows that even attorneys are professional employees and as such have a statutory right to self-organization. It is our contention that foremen are in a greater need of a statutory right to self-organization than attorneys. There are approximately 531 Members of Congress in both Houses; of the 531 there are, I believe, 371 attorneys who in the opinion of the citizens of the United States were best qualified to represent them in the Nation's Capital. Now is it conceivable that the 371 attorneys, prior to their election of last November, were in a greater need of a statutory right to self-organization than shop foremen? It is our contention they were not.

On page 6, paragraphs 1 and 2 read as follows:

"To the same effect in *Worthington Pump and Machinery Corp. case* (75 N. L. R. B. 80), in which the Board states: "* * * the statute itself refutes the respondent's contention that employees like the ones in question are to be deprived of employee status because of the nature of their duties. * * *"

"These cases effectively dispose of any contention that the collective-bargaining rights of professional employees will be destroyed or diminished. In fact, the Board now has ample statutory authority to confirm its position. Likewise disposed of is the misconception that the provisions will operate to the undue advantage of employers. The above cases clearly indicate that, although the employers opposed collective-bargaining rights for the professional employees, the Board had no difficulty in applying the act to support such rights."

These statements should refute the misconception about applying the labor laws to foremen.

On page 7, paragraph 5 reads as follows :

"The professional provisions have not operated to the advantage of the employer or to the disadvantage of nonprofessional labor organizations. The rights of the professional employees have been fully protected and their actual bargaining strength greatly enhanced. As distinguished from 'splinterization,' the professional sections have instituted a proper and workable solution to the problem posed by employee organizations containing divergent elements."

The rights of professional employees have been fully protected—their actual bargaining strength enhanced. The same statement is applicable to supervisors without operating to the advantage or disadvantage of the employer.

Respectfully submitted.

CARL BROWN,

President, Foremen's Association of America.

STATEMENT OF THE POSITION BY THE FOREMAN'S ASSOCIATION OF AMERICA IN RESPECT TO PENDING LABOR LEGISLATION

We are in favor of outright repeal of the Taft-Hartley law and the reenactment of the National Labor Relations Act, commonly called Wagner Act.

Previous to 1935, when the Wagner Act was adopted, all labor, including foremen, had the right to organize and to bring about collective bargaining with their employer if they could on an equal basis. With the enactment of the Wagner Act all employees were afforded protection against discrimination in their efforts to organize, and foremen were not excluded nor deprived of any rights that they had formerly enjoyed. In fact, for many years in some industries foremen had been included in the membership and contractual relationship with the employers, such as maritime, railroads, printing, construction, and a number of others.

It was not a new thing when foremen organized themselves into a strictly independent union and sought to be certified as bargaining units under the provisions of the National Labor Relations Act. The National Labor Relations Board developed a policy that clearly recognized foremen as employees under the meaning of the act, and this policy was finally sustained by a decision of the United States Supreme Court on March 10, 1947, in the Packard case.

Possibly because organization among foremen was growing and expanding among diverse industries, various employer agencies apparently exerted influence upon the Eightieth Congress with a view to depriving supervisory employees of the protection of this country's labor laws in the exercise of their right to organize. This was skillfully accomplished in the enactment of the Labor-Management Relations Act of 1947, commonly referred to as the Taft-Hartley law. This act, while reiterating the right of foremen to organize, effectively granted the employer the right to discriminate against foremen who dared to exercise this right.

EMPLOYERS' CLAIMS IN DENYING SUPERVISORY EMPLOYEES THE RIGHT TO COLLECTIVE BARGAINING

The foremost arguments presented to the National Labor Relations Board, Federal courts, and the Eightieth Congress by representatives of employers against the lawful right of foremen to maintain equal opportunities and protection as other groups of employees in their collective efforts to better their own conditions of employment are as follows :

1. *Foremen are part of management*

There is a great distinction between being management or a part of management and being the supervisory employee who acts as the agent of management. As an agent of management the supervisory employee carries out a predetermined program of translating the plans of management through the activities of those he supervises in producing the goods and products that management ultimately sells or markets.

2. *Foremen can't serve two masters*

This is strictly an implication of divided loyalties. Followed to its ultimate conclusion, once a man becomes a supervisory employee he can have no other loyalty but to his immediate employer. This in effect would deny him the right to join a lodge, church, a labor organization, or even to show loyalty to the interests of his own family, or—in the final analysis—loyalty to his country.

Following quotations were taken from the United States Supreme Court decision dated March 10, 1947, in the *Packard Motor Car Company v. National Labor Relations Board* case:

"The company's argument is really addressed to the undesirability of permitting foremen to organize. It wants selfless representatives of its interest. It fears that if foremen combine to bargain advantages for themselves, they will sometimes be governed by interests of their own or of their fellow foremen, rather than by the company's interest. There is nothing new in this argument. It is rooted in the misconception that because the employer has the right to wholeheartedly loyalty in the performance of the contract of employment, the employee does not have the right to protect his independent and adverse interest in the terms of the contract itself and the conditions of work.

* * * * *

"Even those who act for the employer in some matters, including the service of standing between management and manual labor, still have interests of their own as employees. Though the foreman is the faithful representative of the employer in maintaining a production schedule, his interest properly may be adverse to that of the employer when it comes to fixing his own wages, hours, seniority rights or working conditions. He does not lose his right to serve himself in these respects because he serves his master in others."

3. *Foremen act in the interest of the employer*

So do all employees. The Supreme Court decision in Packard case of March 10, 1947, quotes in part, "Every employee from the very fact of employment in the master's business is required to act in his interest. He owes to the employer faithful performance of service in his interests, the protection of the employer's property in his custody or control, and all the employees may as to third parties act in the interests of the employer to such an extent that he is liable for their wrongful acts."

4. *If foremen are granted the same rights, privileges, and protection as other groups of employees the result would be industrial chaos*

This time-worn statement has been overworked for decades. It has been used against practically all proposals offered to aid the workingman. And no combination of words in the English language can be composed based upon fact to sustain the charge. It is common practice in several industries for foremen to be recognized as a group appropriate for the purpose of collective bargaining, and the owners of those industries make no claim that chaos results from such recognition.

The Railway Labor Act enacted in 1926 extends to supervisory employees the same privileges and protection in their collective efforts as it does to other groups of railway employees, and no claim is made that chaos reigns by reason of such privileges and protection by the operators of that very large business.

Likewise, operators of water-borne vessels make no charge that chaos flourishes in the shipping industry as a result of recognizing mates and engineers for the purpose of collective bargaining. The job duties of licensed officers aboard vessels are comparable to those of foremen employed in land industries.

Several liberal-minded employers recognize the Foreman's Association of America as collective-bargaining agent for their supervisory employees. And these same employers make no claim of reduced efficiency of operations because of bargaining privileges of their foremen.

The assertion is so weak that it can best be answered in one terse expression supplied by Gen. Anthony Clement McAuliffe in reply to German demands during the battle of Bastogne: "Nuts."

NEED FOR COLLECTIVE BARGAINING

From the early days of mass production by power machinery to the present decade the foreman was considered either as the channel through which the desires of ownership and management were conveyed to and made effective among the body of workers, or as the representatives of ownership and management in the shop. Just before the opening of the present decade the organization of the body of workers into plant and industry-wide unions demanding the exclusive right of representation for collective-bargaining purposes, dealing with employers or groups of employers in organizations that have existed for years, has greatly changed the real status of the foreman.

In the particulars of the day's production the foreman is yet the channel for making effective policies and directions of management as applied to production, but he is a part of neither organized ownership and management on the one hand nor of organized labor on the other hand. The foreman fits between two enormous powers, ownership and management on top and labor unions with enormous numbers on the bottom. The foreman has reason to feel that in the ceaseless struggle between ownership and wage labor the foreman will become a victim unless all foremen are organized to protect individuals and interests common and essential to the position of foremen in modern mass power production.

WHY SUPERVISORY EMPLOYEES ARE ENTITLED TO PRIVILEGES AND PROTECTION BY LAW
IN THEIR COLLECTIVE BARGAINING ENDEAVORS

The Labor-Management Relations Act of 1947 placed the supervisory employees of this Nation in the same unreasonable position all other mass production employees were in prior to the enactment of the National Labor Relations Act of 1935. Under the new Federal labor law many employers are imposing the same unsatisfactory conditions of employment upon foremen as were imposed upon other groups of employees prior to 1935.

The general public welfare, most social gains, and improved conditions of employment have been attained through the medium of group discussions, considerations, and decisions; but the denial to supervisory employees protection by law in their collective union endeavors has furnished employers with an effective method of preventing foremen from exercising their right to free or voluntary association on the penalty of discharge or other discriminatory acts.

No attempt has been made to include in this statement all that could be said favoring the question of supervision. However, pertinent points are mentioned for the committee's information, and we respectfully request that the committee favorably consider the proposition of extending to supervisory employees the same opportunities, privileges, and protection in their union activities as will be extended to other groups of employees in the enactment of new Federal labor legislation.

Respectfully submitted,

CARL BROWN,
President, Foreman's Association of America.

(Pursuant to request of Senator Smith, rebuttal argument submitted by Glenn Gardiner for the record, was received as follows:)

REBUTTAL BY GLENN GARDINER, PRESIDENT, NEW JERSEY STATE CHAMBER OF COMMERCE TO ARGUMENTS PRESENTED BY CARL BROWN, PRESIDENT OF THE FOREMAN'S ASSOCIATION OF AMERICA, IN A DOCUMENT INSERTED IN THE RECORD UNDER THE TITLE: "THE POSITION OF FOREMAN'S ASSOCIATION OF AMERICA IN REPLY TO TESTIMONY GIVEN TO SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE ON FEBRUARY 14, 1949, BY GLENN GARDINER"

In my original brief before the Senate Labor Committee presented on February 14, 1949, I stated that in the performance of their supervisory duties, such functions as the following are included in the activities of foremen:

- Selection and hiring of employees.
- Assignment of men to jobs.
- Instructing men in their job duties.
- Imparting a knowledge of company policies and regulations.
- Planning and laying out the work.
- Improving job methods.
- Getting from employees an hour's work for an hour's pay.
- Controlling the cost items in getting work done.
- Maintaining the quality of work.
- Conserving materials and supplies.
- Administering the wage plan.
- Determining the workload for employees.
- Preventing accidents and work injuries.
- Helping to formulate regulations and policies.
- Maintaining discipline among workers.
- Enforcing rules and standards.
- Adjusting grievances.

In the document filed with the Senate Labor Committee, Mr. Carl Brown, president of the Foreman's Association of America, proceeded with a more or less categorical denial that foremen actually did perform such functions. Little light will be shed by a "they do"- "they don't"- "they do"- "they don't" argument. Actually, the record is replete with expert testimony to substantiate the fact that the function of foremen is basically a delegation of management functions from higher managerial executives.

In refutation of Mr. Brown's statements, I will present the following :

Mr. Brown's statement

"He says the foremen select and hire employees. This is the exception to the general rule, for the selection in the hiring of employees is generally done by the employment manager in the employment office, which foremen seldom enter," (Tr. 3579, February 17, 1949).

Refutation

Mr. Brown would have the committee believe that the foreman has nothing whatever to do with the selection and hiring of employees and that all phases of this job are handled by the employment manager in the employment office.

It is true that the employment department does play a part in the procedure but this does not detract from the importance of the foreman's role. It is the foreman who initiates requisitions for new employees, and it is general practice for him to indicate the specifications which must be met in the selection of employees.

It is customary for the employment department to make a preliminary screening of applicants and then send the candidates to the foreman for final selection. Even where this is not done, the foreman has the right to return to the employment department any individual who does not meet the requirements of the job. The important point is that the foreman does exercise judgment at the time of selection and he also is the individual who must determine, during the probationary period, whether or not the new employee is satisfactory on the job. If the individual is not suitable, the foreman sends him back to the employment department for reassignment or release.

* * *

Mr. Brown's statement

"Second among their duties is assignment of men to jobs. In this respect the area of a foreman's discretion is limited in the classifications of the men he supervises, and the classifications are determined by employer executives and the representatives of the rank and file union" (tr. 3579, February 17, 1949).

Refutation

Mr. Brown admits that foremen assign men to jobs but he argues that the area of discretion is limited. Of course, the individual foreman's discretion in assignment of men to jobs is limited to the men and classifications under his jurisdiction. In any organization the jurisdiction of any executive is limited to the people and activities under his supervision. That is the essential feature of organization whether it be in industry, Government, or military. The point is that any job assignment to any classification is made by a foreman.

* * *

Mr. Brown's statement

"Third among the duties of foremen is instructing men in their job duties. We agree, although in some departments in mass-production industries, instructing new employees in their job duties is the responsibility of leaders who are in the bargaining unit of the rank-and-file workers" (tr. 3579, February 17, 1949).

Refutation

Mr. Brown agrees that foremen instruct men in their job duties, but he argues that leaders perform this function in some departments. Many plants do not have leaders and the foremen perform all of the instructing of employees. Even where there are leaders assisting the foremen in the instruction of employees, the responsibility rests with the foreman and where there is a challenge of instructions it is the foreman who is challenged. If there is any question as to the propriety of instructions, final responsibility rests directly upon the foreman. If a leader has any responsibility for instructing, it is delegated to him by the foreman. Where there are leaders, the foreman usually supervises a larger group of employees than would otherwise be the case. In such situations, the foreman

is not only supervising employees, he is supervising leaders who are in turn performing a limited form of supervisory function.

* * *

Mr. Brown's statement

"Fourth among the duties of foremen as listed by Mr. Gardiner is imparting a knowledge of company policies and regulations. In most instances company policies are incorporated in the contract between the employer and the union representing the employees. Certainly rules and regulations are in practically all contracts" (tr. 3780, February 17, 1949).

Refutation

Mr. Brown takes the position that the company policies, rules and regulations are incorporated in the union contract and, therefore, the foreman has no responsibility for imparting such information to employees. This reflects a viewpoint restricted to the "union contract" approach in employee relations.

In actual practice there are many important company policies, rules, and regulations which are not negotiated in union agreements, and the primary responsibility for explaining these to employees and answering their questions about them does rest with the first-line supervisor.

Examples of such policies, rules, and regulations are those dealing with group insurance, hospitalization, war-bond deductions, savings plans, recreation facilities, plan medical services, purchases of company products, opportunities for education and training, suggestion plans, cafeteria facilities, service recognition, loans available to employees to meet certain emergency situations and assistance in meeting personal problems.

Furthermore, in the case of those matters which are incorporated in the union agreement, it is the foreman who must inform the employees regarding such provisions, answer their questions and make decisions as issues are raised.

* * *

Mr. Brown's statement

"No. 5 among the foremen's duties is planning and laying out the work. Only according to and within the scope of a predetermined production schedule by executives of the company who are not susceptible to unionization" (tr. 3580, February 17, 1949).

Refutation

This is true as far as it goes. But how does this prove that foremen are not a part of management? The definition of management implicit in the quoted statement is that "only that man or small group of men who determine basic policy or basic courses of action is management." This is unrealistic in the extreme. Management encompasses not only policy determination but also executive functions. Every individual who has the responsibility to carry authority down the line on the basis of predetermined policy is performing an executive function and is therefore just as much a part of management as the man or men who determine policy. The difference is in degree of responsibility only. Any employee who shares in the responsibility for the over-all job is part of management.

In other words it is quite true that the foreman plans and lays out the work "only according to and within the scope of predetermined production schedule." This means in effect that in his own domain the foreman is the boss. There is great latitude in how to plan and lay out work, even within a predetermined schedule. It is the foreman's responsibility to exercise his imagination and initiative in laying out and planning the work in his department so that the job will get done with a minimum amount of waste, duplication of effort and unnecessary physical exertion on the part of the employees working under him. That is the foreman's job in management.

Of course, the degree of responsibility for this particular function will vary depending upon the situation. In some activities such as maintenance, tool, die and pattern departments and other service functions, the foreman may have the sole responsibility for planning and laying out the work. Even in the closely integrated assembly line type of operation, there are foremen in charge of receiving, material control and shipping. At all stages of manufacture, some foreman is in charge.

* * *

Mr. Brown's statement

"No. 6 among the duties of foremen is improving job methods. The foreman cannot select nor determine the kind of machines to be used in production,

nor can he determine just what methods will be used in the manufacture of a product. If the foreman should conceive an idea that would make the job more efficient, he would first have to get the approval of his superiors before putting his idea into operation. The same procedure applies to workers supervised by the foremen" (tr. 3580, February 17, 1949).

Refutation

Mr. Brown insists that the foreman does not have responsibility for improving job methods and, furthermore, is given little, if any, opportunity to do so.

Certainly, in the great majority of well-managed companies in this country the foreman is given such an opportunity and, indeed his advancement in the organization frequently results from the fact that he has shown himself to be on the alert to bring about just such improvements.

Contrary to Mr. Brown's contention, foremen are regularly consulted in regard to the machines, tooling, and methods which are to be used in the manufacture of the product. Indeed, no company could operate successfully without the benefit of the foreman's first-hand knowledge and experience gained in actually directing the work. Certainly there are tool design departments, process departments and plant lay-out departments. But these are staff departments, set up to serve the line organization. They do not operate in a vacuum, aloof and apart from the foreman. They maintain the closest contact with him, getting his ideas and suggestions and, in the final analysis, the decisions made are those which bear the foreman's approval. They are given training courses in such subjects as better methods. Procedures are established under which they submit their ideas, and records are maintained as to those which are placed into operation.

So important was this function of foremen regarded during the war that the training-within-industry provided a job-methods training program for more than 2,000,000 foremen in American industry. I was the author of that program. It was adopted by Canada and Great Britain for their foremen, and is still very extensively used as a part of foremanship training.

In many companies, hundreds and even thousands of such job-improvement methods result from these programs each year.

The foreman is also the keyman in the suggestion plans in which employees participate. Where the ideas pertain to operations under the foreman's supervision he must work with the employee in being sure that he understands the suggestion and see that it is carefully considered. Frequently it must be tried out in practice and final approval of the idea depends on the foreman's judgment as to its feasibility.

* * *

Mr. Brown's statement

"No. 7 on the list is the getting from employees of an hour's work for an hour's pay. In mass-production industries generally the number of pieces produced per hour by each workingman is determined by the employer and the union representing the workingman through joint time studies. The foreman is not vested with the authority to change the number of pieces to be produced by the work" (tr. 3580, February 17, 1949).

"No. 12 among the duties as described by Mr. Gardiner is determining the work load for employees. This function is not determined by the foreman on production jobs as a rule, but is determined through the process of joint time study between the employer, time study department, and the union representing the workers. The amount of production to be produced within a definite period of time is determined by the scheduling department, and the foreman has no authority to change the schedule furnished to him without the approval of an official of the company not susceptible to unionization" (tr. 3582, February 17, 1949).

Refutation

The foreman definitely has responsibilities in establishing work standards, in seeing that the standards are maintained, and in handling disputes that arise regarding standards.

It is not true that standards are generally established through joint union management time studies. Such studies are made in a few companies in dispute cases. The UAW, for example, even in its demands, specifically disavows responsibility for establishing standards.¹

¹ See publication *The UAW-CIO Looks at Time Study* issued by the international union, UAW-CIO which states in part: "The Union shall not be a party to an original time study or to a time study made in connection with an operation that has been changed. * * *

Time study is a generally accepted method of establishing standards, however, time-study technicians work with and through the foreman and the foreman's judgment and experience is an important factor in establishing standards. In many plants, the foreman's approval of a standard is required before the standard is placed into operation.

No matter how standards are established, production according to the standard does not come about automatically. It is the foreman's responsibility to see that production is maintained according to standards. Anything which would impair the foreman's position in this area would directly affect production output.

Where there are disputes over production standards, the foreman handles the case at the outset. Many labor agreements require that such disputes be taken up with the foreman. In such situations the foreman is in a position to make a binding commitment for the company on what the standard shall be.

Because of absenteeism and changing production schedules foremen are constantly faced with the necessity of rearranging task assignments of employees. This has the effect of changing work standards for the employees involved.

In mass production, of course, there must be an over-all production schedule if there is to be any successful coordination of all the activities. However, a master production schedule will not produce final products. The foreman must see that all of the activities of his group meet the established schedules. Each component part must be scheduled and produced. In his area he must make many decisions affecting the production of the components for which he is responsible.

In the automobile industry, for example, the general manager of a parts company must make his schedules conform to the schedules of the final car assembly. Does that remove him from management?

* * *

Mr. Brown's statement

"No. 8 is controlling the cost items in getting work done. On production jobs the work cost per piece is largely determined through the time-study process in which the foreman seldom has any voice. In the matter of nonproduction work such as maintenance, material handling, et cetera, the foreman cannot determine the cost. For instance, a boxcar load of bolts is shoved on the employer's property to be unloaded. The foreman in charge of the unloading crew cannot determine prior to unloading the car whether or not it is going to cost \$50 or \$100. He can only lead his crew and not drive them" (tr. 3581, February 17, 1949).

Refutation

This says, in effect, that foremen are superfluous—which they would be if the functions denied them by this statement were denied them in fact.

There are several fallacies in this statement. First, " * * * the work cost per piece is largely determined through the time-study process in which the foreman seldom has any voice." This statement is not true. The most scientific time study will not produce any product. Time studies are used to estimate costs. Actual costs depend in a large measure on how well the foreman performs his supervisory duties.

Second, "In the matter of nonproduction work * * * the foreman cannot determine the cost. * * * He can only lead his crew and not drive them." It is not the job of the foreman to "drive" his crew. That is the long-obsolete definition of foremanship as production pushing. A foreman guides his crew. And the way he guides his crew, the way he lays out and plans the work most definitely affects the cost. There are a number of ways to do any job, even a job so simple, seemingly, as unloading a boxcar load of bolts. It is the foreman's job to figure out the most effective way, the way that not only saves money but also saves his employees unnecessary backstrain. Again, this involves experience, and the exercise of judgment and initiative—in one word, management.

As a matter of fact, foremen in most cases are very definitely responsible for costs. For example, they must operate within a budget on the nonproductive expenses of their departments. The budget in turn is determined on the basis of experience which is contributed in large part by the foreman. In many instances similar budgeting methods and responsibility apply to man-hours on productive operations.

* * *

Mr. Brown's statement

No. 9 among the duties of the foreman is maintaining the quality of work. While the foreman is very much interested in quality work, the inspection department generally determines whether or not a product manufactured is suitable

for sale or to be scrapped. In fact, in some industries, inspectors working under the jurisdiction of an inspection foreman have the authority to shut down a job supervised by a production foreman" (tr. 35S1, February 17, 1949).

Refutation

The production foreman is responsible for producing quality work. This is a primary responsibility and anyone who has been around a plant would realize that it is not to be passed off as lightly as suggested by Mr. Brown. Picture, for example, a production line running a component part for a major product. Who is responsible for faulty pieces coming off the line? The foreman is responsible and his immediate task is to find the trouble and have it corrected. This responsibility is all the more pressing in mass-production plants because a delay in one line can easily cause a shut down in other lines. Where there are separate inspection functions, the purpose is to make doubly sure that substandard work does not get into the product. The inspectors detect bad work. Responsibility for it goes back to the foreman whose men produced it. Even in these situations, a foreman is in charge and as Mr. Brown admits, the foreman has wide discretionary authority.

Quality can't be slipped into a job—it has to be built in, and that's the foreman's responsibility.

* * *

Mr. Brown's statement

"No. 10 is conserving materials and supplies. We agree, and it is the duty of all employees" (tr. 35S1, February 17, 1949).

Refutation

Mr. Brown could have gone on to acknowledge that the foreman has the responsibility for seeing that employees under his supervision conserve materials and supplies. Foremen approve requisitions for materials and supplies.

Mr. Brown's statement

"No. 11 is administering the wage plan. This statement is not true nor applicable to the mass production industries of this Nation employing 90 percent of the workers and foremen. The wages paid to workers are determined by the employer and the union representing the workers. The foreman has no authority to change the wages of any worker's classification" (tr. 35S1, February 17, 1949).

Refutation

Mr. Brown claims the foremen has no responsibility for administering the wage plan because wages are determined by agreement between the company and the union.

Of course wage rates are established by collective bargaining where a union represents employees, but a wage agreement is given life and meaning only through administration. Employees must be classified according to the work they are assigned to do; they must be reclassified when they are transferred from one class of work to another; they must be paid proper rate upon being transferred. Wage rules regarding progression from hiring rate to job rate must be carried out. Merit increases within merit spreads must be initiated. It is the foreman's judgment of the employee's performance that determines the rate paid within a merit rate spread. In incentive systems of pay, certain pay allowances must be given for specified abnormal conditions. For example, if material conditions beyond the employee's control cause low earnings, the foreman initiates an allowance to make up the loss in pay. None of these functions come about automatically. All of them are administrative functions of the foreman.

No wage agreement, no matter how carefully negotiated, will function satisfactorily without careful administration. The only member of management in a position to carry out many provisions of the wage agreement is the foreman on the job where the agreement is applied.

* * *

Mr. Brown's statement

"No. 13 among the duties as stated by Mr. Gardiner is preventing accidents and work injuries. While it is to the best interests of the employer, the foremen and the workers alike, to prevent accidents and work injuries, most employers maintain a safety department in which the rules for preventing accidents and work injuries are determined, and in numerous cases are incorporated in the

contract between the employer and the union representing his workers. The foreman has no authority to alter safety rules established by the safety department or those contained in the agreement between the employer and the union representing his workers (tr. 3582, February 17, 1949).

Refutation

Mr. Brown takes the position that the safety of employees depends upon a safety department and certain rules and regulations established by that department or incorporated in union agreements. He would have the committee believe that the foreman has no authority to alter such safety rules and, therefore, does not have responsibility for the prevention of accidents and work injuries.

Safety cannot be legislated through rules and regulations. It is important to have a good safety department but it is a staff activity and the existence of such a department does not assure the safety of employees.

The companies which have consistently maintained the best safety records in their industries are those which have placed the greatest emphasis upon the responsibility of the foreman for the safety of the employees who work under his supervision.

The late William Knudsen stated this well 15 years ago when he said to a group of General Motors foremen: "Safeguarding our employees is the most important task before us at all times."

The existence of safety rules and regulations isn't enough—anyone can write a set of rules. The difficulty comes in assuring conformance with good safety practice by each individual employee throughout every hour that he is on the job. This requires proper initial training and continual follow-up every day of the year, and the man who must do this job is the foreman.

Companies with the best records explain their success as due, primarily, to the way their foremen carry out this responsibility for the safety of the individual employee. They train the foreman in safety, the supply him with material to use in his daily talks with employees. Certainly they have safety departments, certainly they have books of safety rules and regulations, but it is the foreman who has the direct responsibility and it is the foreman who does the job.

In the Forstmann Woolen Co., with which I am associated, the complete responsibility for accident prevention is placed upon our foremen. We have no safety engineer. Joint committees with union representation are under the chairmanship of foremen. That this placing of responsibility on foremen works well is attested to by the fact that our company has just set an all-time safety record for the industrial State of New Jersey, and at this writing the record still goes on unbroken. Show me any company where foremen are not held responsible for safety and I'll show you a company whose safety record is not good.

* * *

Mr. Brown's statement

"No. 14 among the duties of foremen as stated by Mr. Gardiner is enforcing rules and standards. Once the rules under which the workers work and the standards of production are set by agreement between the employer and the union representing his workers, the foreman becomes the 'traffic cop' to see that the rules are adhered to and the standards of production maintained without authority to change either the rules or the standards" (tr. 3582, February 17, 1949).

"No. 16 is maintaining discipline among workers. The foreman has little or no discretionary authority in disciplining workers, for practically all disciplinary action to be meted out to workers for violation of company rules or misconduct are determined by agreement between the employer and the union representing his workers. Again the foreman becomes a 'traffic cop' enforcing rules in which he had no part in establishing and no authority to change them" (tr. 3583, February 17, 1949).

Refutation

In case of violations of shop rules and regulations, almost invariably it is the foreman who is management on the scene and who witnesses the violation. The foreman usually decides the extent of discipline for such violations. Unless he initiates action, none will be taken. Where the foreman consults with other members of management and recommends the action to be taken, his recommendations carry great weight since he is often the only management member who has first-hand knowledge of the facts.

Even in the situations where shops rules are listed in the labor agreement, there is no automatic device for administering discipline for violations. There are invariably circumstances which must be taken into account.

Arbitration of grievances involving discipline has become the accepted practice in a large majority of labor agreements. In such arbitration, the action at issue is usually the action taken by a foreman. The cases usually turn on the testimony of the foreman who had first-hand knowledge of the incident and who initiated the disciplinary action. Of course, individual foremen do not change the established rules. Reasonable rules of conduct have meaning and they are not changed from day to day by anyone.

Obviously, if foremen were subject to union control, they could be in an extremely difficult position. They would not be free to take action against other union members and discipline and efficiency would suffer.

* * *

Mr. Brown's statement

"No. 15 among the duties of foremen, as stated by Mr. Gardiner, is helping to formulate regulations and policies. These functions are performed by executives of a company who are not susceptible to unionization. Foremen do not formulate employer policy" (tr. 3583, February 17, 1949).

Refutation

Mr. Brown takes the position that foremen have nothing to do with helping to formulate employer policies.

There are two general areas of policy determination. There are certain policies which are company-wide in their application. Where such policies relate to the foreman's duties and responsibilities it is the practice in many companies to seek his direct participation in their formulation. For example, when new union agreements are to be negotiated it has been common practice to ask all foremen for their ideas and suggestions for improvements in the provisions of the agreement. Since they have the primary responsibility for administering the agreement as it pertains to relationships with employees under their supervision, they are in the best position to make suggestions for improving that relationship.

Questionnaires have also been used for the purpose of obtaining the foremen's opinion regarding general policies and procedures which are applicable to them, and their answers to these questionnaires have been used as a guide in making subsequent changes in company-wide policies.

Regardless of the particular method used, an effort is always made to establish policies with proper consideration of their effect on the people involved and on the members of management who will be responsible for administering them. There is a constant "two-way" flow of ideas, comment and opinion up and down the line organization. Sometimes formal, sometimes informal, it has a very important influence on the establishment of company-wide policies.

However, there are other policies, procedures, and practices more closely related to the foreman's day-to-day work. It is customary in the better-managed companies to have frequent meetings presided over by the factory superintendent, for example, and including his management staff—his general foreman, and foreman. At these meetings it is customary to discuss issues which pertain to the work at hand, such as changes in production schedules, problems raised by material shortages—in other words, matters relating to production and also any changes in procedure which have a bearing upon relationships with employees. Such meetings are informal and the foreman actively participates in the discussion, raises questions and makes suggestions.

Mr. Brown's statement

"No. 17 among the duties as stated by Mr. Gardiner is adjusting grievances. Practically all contracts covering grievance procedure between employers and the unions representing his workers provide that the foremen will act in the first step or stage in the grievance procedure. However, if the aggrieved employee is not satisfied with the foreman's predetermined answer according to the contract, the aggrieved employee may invoke succeeding steps in the grievance procedure, and the final answer may be given by the personnel director of the company, which may or may not reverse the initial decision by the foremen. In any event, his area of discretion is predetermined by the employer and the union representing the workers" (tr. 3583, February 17, 1949).

* * *

Refutation

A foreman's answer to a grievance can be the final binding commitment of the company and in a large percentage of grievances such is the case. Of course some of the answers of the foreman are appealed to higher steps of the grievance procedure; however, in the majority of contracts which provide for arbitration of grievances, the answer of the general manager or even the owner is subject to appeal.

In any case which is appealed to higher steps of the grievance procedure, the foreman's answer, his testimony and first-hand knowledge are most important factors in the case.

If the foremen become subject to union control, this whole system of peaceful adjustment of grievances would be jeopardized. Management would hardly be expected to empower members of a union to bargain for the company with union representatives. In arbitration as in bargaining, the unions would be represented on both sides of the table.

* * *

Mr. Brown's statement

"The next paragraph on page 8 following the listing of job duties implies that a foreman is responsible for all the elements and problems which confront the manager of a business within a business. The implication is greatly exaggerated, for the manager of an independent business is responsible for the purchase of merchandise, the product to be manufactured, the shape, form or size of the product to be manufactured, establishes the wages, hours, and other conditions of employment by mutual agreement with the union representing his employees, determine how many pieces or units will be manufactured, and determines the number of employees to be employed. None of these essential functions is vested in the authority of the foreman. The foreman is not responsible for any investment in equipment, nor work space, nor material and labor as contended by Mr. Gardiner" (tr. 3584, February 17, 1949).

Refutation

This is twisting the meaning and intent of the statement. The statement pointed out that "the nature of a foreman's functions resembles that of the general manager of the company. The difference is chiefly in scope."

Taking into account this difference in scope, the foreman's functions most certainly are those of "a manager of a 'business within a business.'" The general manager of a company is not a complete autocrat, either. He has to keep within certain policies laid down by the board of directors or similar authority. He can recommend, in fact it is his duty to recommend that certain policies be changed or that new policies be adopted as his judgment may dictate. Similarly, it is the foreman's duty to recommend policy changes or new policies. And such recommendations may indeed touch upon every phase of the business pertaining to the foreman's department, including the kind of materials purchased, the flow of materials to his department, methods of processing or manufacturing, wages of employees (merit increases), number of employees needed to do the job, rates of production, type of equipment to be used, etc.

Here again, to deny the foreman these functions is to say that he is no more than a supernumerary in the production organization, with neither worker status nor management status. This is a very queer attitude to take for an organization allegedly out to improve the lot of the foreman.

* * *

The attitude that foremen are superfluous emerges even more plainly in the next paragraph which states, in part:

Mr. Brown's statement

"The foreman is told what he can and cannot do, and cannot change established policy nor procedure without the approval of his superiors who are not susceptible to unionization. The foreman cannot exercise his judgment to this extent that it would change established work methods; therefore, it cannot greatly affect his department and certainly not the entire business" (tr. 3584-3585, February 17, 1949).

Refutation

If the foreman "cannot greatly affect his department and certainly not the entire business" then the implication is that things in the plant would go along just as well without the foreman. If this were true, then employers throughout

the country would be wasting millions of dollars every day keeping foremen on the job.

But these implications of the paragraph quoted above are contradicted by the paragraph that follows it, in which Mr. Brown says, in part:

"* * * (the foreman's) ability to develop an efficient, cooperative work force will * * * do one of two things. It will aid in building up the employer's profits, or lessen the cost of the product whereby it may be marketed more cheaply * * *" (tr. 3585, February 17, 1949).

To operate the business at a profit is a function and responsibility of management. To manufacture the product at the lowest possible cost so as to make it available to customers at the lowest possible price is likewise a function and responsibility of management. The quotation above points out that the foreman aids in these functions and shares in these responsibilities. This is the best possible proof that the foreman is in fact a vital part of management.

* * *

According to Webster's Dictionary, management is "the collective body of those who manage any enterprise." Anyone who shares in the functions of management is a manager, regardless of his title. He may be a general manager, a superintendent, a department head, a foreman, or supervisor. How many people participate in management depends on the size and nature of the enterprise. The number may vary from one to thousands. The larger the organization, the larger must be the "collective body of those who management the enterprise."

When I was a foreman myself in the early 1920's, the company by which I was then employed, had an executive training program, the purpose of which was to train and develop foremen in their management responsibilities. The following is quoted from that program:

"Just as a general manager is the highest authority in the enterprise, so the foreman is the highest authority in his department. He has been invested with the authority of management. The men in the shops look to him as the representative of management. They get their instructions from him. He carries out the company's plans and policies. The workmen also get their opinion of the company from the treatment they receive from their own foremen."

Finally, it is my contention, based upon many years of managerial experience in a number of companies—experience ranging all the way from foremanship to positions of top executive responsibility—that foremanship is an integral part of management. Anything which tends to separate foremen from the rest of management is destructive of the effectiveness of management itself.

The legalization of foremen as an appropriate bargaining unit to deal collectively with management, would undoubtedly result in far-reaching changes in the status of foremen. No longer would it be feasible for management to be represented by foremen in employee-employer relations. The foremen then would probably have even less than "traffic cop" status.

The foreman's own interests are best served by continuing as a bona fide member of the management team. We do not want to see develop in American industry a situation in which any road block is set up in the pathway of men in the ranks who are ambitious to forge ahead to top positions in management.

Traditionally, our industry has always provided free and unhampered opportunity for men to rise from the ranks to foremanship, and foremanship has always been recognized as the first rung of the management ladder. Anything which might alienate lower levels of management from higher levels would undoubtedly mitigate against the interests of foremen. Once a man gets onto the management team, his progress and advancement are best served by protecting his opportunity to be himself, to be judged by his individual qualities, and to move forward at a pace determined by his own personal ability and merit. Advancement of the individual up the management ladder cannot possibly be regulated intelligently or equitably by contract, by formula, by strict seniority, or by the pressures of collective bargaining. In positions where the quality of leadership is the prime requisite for advancement, the criteria upon which judgment is justly based are quite different than those considered with reference to rank and file jobs.

The CHAIRMAN. Senator Murray, do you have any questions?

Senator MURRAY. I believe you have already stated the effect of the Taft-Hartley Act on the members of your organization, have you not? Have you given a complete analysis of the effect of the Taft-Hartley Act on your organization?

Senator DONNELL. What was the question? I couldn't hear it.

Senator MURRAY. I asked him if he has given us a complete story as to the effect of the Taft-Hartley Act on the foreman's organization.

Mr. BROWN. No, I have not. We have lost over 50 percent of our membership. Foremen can no longer meet as free men without fear of reprisals by the employer, and they now meet in out-of-the-way places in order to avoid detection by the employers for fear of discharge or other discriminatory acts by the employer. They cannot meet freely on that account.

Foremen are contacting us daily to tell us they will not attend meetings because of that fear. However, they send their dues in, identify themselves by initials, but will not sign their names for fear of discriminatory action by the employer.

Senator MURRAY. The operation of the Taft-Hartley Act then, you claim has had a very disastrous effect upon the members of your organization in their efforts to improve their situation?

Mr. BROWN. That is right.

Senator MURRAY. Has the Taft-Hartley Act had any effect in preventing strikes in your organization?

Mr. BROWN. We have had fewer strikes under the Taft-Hartley Act but nevertheless we had a strike of the foremen at the Hudson Motor Car Co. about a year ago, at which 500 foremen struck and as a result they obtained an agreement with the company, but there have been a number of threats of strikes.

Senator MURRAY. And the relations, then, between your organization and the employers have been very unsatisfactory?

Mr. BROWN. With the exception of those few employers who recognize us as bargaining agents for their foremen.

Senator MURRAY. And there the relations have been satisfactory in those cases?

Mr. BROWN. They have.

Senator MURRAY. Under the Taft-Hartley Act has your organization been able to obtain any improvement in wages and working conditions, et cetera?

Mr. BROWN. Only with those employers where we are recognized as a bargaining agent. There is quite a contrast there. Even those chapters where the employer recognized the association as bargaining agent for the foremen prior to the Taft-Hartley Act and have since canceled that recognition, those employers are now imposing conditions upon their foremen as they imposed upon employees prior to the Wagner Act.

The CHAIRMAN. Have you anything to say in your testimony with reference to the effect of the Taft-Hartley Act on your organization that you haven't already put in the record or in your statement?

Mr. BROWN. I might say that since the passage of the Taft-Hartley Act, numerous cases that we had pending at the time of representation and unfair labor practices were canceled by the Board, and I have a list here that I would like to submit to have it become a part of the record.

The CHAIRMAN. Without objection, it will be received.

Senator HILL. What is that list?

Mr. BROWN. A list of representation cases and unfair labor practice cases that were pending with the Board at that time of the passage of the Taft-Hartley Act.

(The list above referred to was submitted by Mr. Brown as follows:)

CHAPTERS OF FOREMEN'S ASSOCIATION OF AMERICA COVERED BY WRITTEN, SIGNED
CONTRACTS WITH THEIR EMPLOYERS PRIOR TO TAFT-HARTLEY ACT

Detroit Lubricator, chapter No. 4, original June 17, 1946; amended May 29, 1947.
Kaiser-Frazer Corp., chapter No. 20, original December 2, 1946; amended June 23, 1947.
United Stove Co., chapter No. 52, original September 5, 1944; supplementary September 1, 1945.
Consolidated Paper Co., chapter No. 79, original September 30, 1946; amended (date pending corrections).
ITE Circuit Breaker Co., chapter No. 156; terminated by company under Taft-Hartley Act. Original November 30, 1946.
Great Lakes Marine, chapter No. 159, units 3 and 4 Nicholson Transit Co., original September 17, 1946; supplementary September 23, 1946. Amended April 22, 1947; supplementary May 1, 1947.
General Ceramics & Steatite Corp., chapter No. 166; terminated by company under Taft-Hartley Act. Original May 2, 1946; amended April 30, 1947.
Kaiser Cargo, Inc., chapter No. 183, original August 5, 1946.
Lever Brothers Co., chapter No. 186; terminated by company under Taft-Hartley Act; original May 1, 1946; amended May 1, 1947.
Greater Detroit, chapter No. 230; terminated by company under Taft-Hartley Act. Detroit Graphite Co., the Valspar Corp.; original April 29, 1947.
Conmar Products Corp., chapter No. 262; terminated by company under Taft-Hartley Act. Original November 16, 1946.
Hupp Corp., chapter No. 303; terminated by company under Taft-Hartley Act; original December 16, 1946.
Kaiser-Frazer Corp., engine division, chapter No. 322; original June 24, 1947.

CHAPTERS OF FOREMAN'S ASSOCIATION OF AMERICA COVERED BY RECOGNITION AGREEMENTS WITH THEIR EMPLOYERS

Detroit Edison, chapter No. 13, original June 8, 1945.
F. L. Jacobs Co., chapter No. 127, original May 25, 1945; terminated by company under Taft-Hartley Act.

CHAPTERS OBTAINING CONTRACTS SINCE TAFT-HARTLEY ACT

Hudson Motor Car Company, chapter No. 6, original February 16, 1948 (after 9 day strike).
Great Lakes Marine, chapter No. 159; under Railway Labor Act; unit 8, Wabash Railroad Co., February 1, 1948; units 9 and 10, Ann Arbor Railroad Co., December 21, 1948; units 13 and 14, Grand Trunk Western Railroad Co., December 21, 1948.

LIST OF CHAPTERS THAT THE FOREMAN'S ASSOCIATION OF AMERICA HAD REPRESENTATION CASES PENDING BEFORE THE NLRB AT TIME OF LABOR-MANAGEMENT RELATIONS ACT (TAFT-HARTLEY ACT)

Briggs Manufacturing, chapter No. 2, case No. 7-R-2487.
Chrysler, chapter No. 3, case No. 7-R-2502.
Chrysler, chapter No. 3, case No. 7-R-2505.
Gar Wood Industries, chapter No. 7, case No. 7-R-2309.
International Detrola, chapter No. 9-R, case No. 7-R-2545.
Timken Axle, chapter No. 10, case No. 7-R-2072.
Carnegie-Illinois Steel, chapter No. 42, case No. 13-R-3063.
Spicer Manufacturing, chapter No. 75, case No. 4-R-2270.
International Harvester, chapter No. 107, case No. 13-R-3076.
Houdaille Hershey, chapter No. 108, case No. 13-R-3984.
Wilson & Co., chapter No. 115, case No. 13-R-3077.
Westinghouse Electric, chapter No. 141, case No. 2-R-7405.
Mack Manufacturing Co., chapter No. 146, case No. 4-R-1761.
Mack Manufacturing Co., chapter No. 146, case No. 4-R-2102.
Wright Aeronautical Corporation, chapter No. 147, case No. 2-R-7220.
Cleveland-Cliffs Iron Co., chapter No. 159, case No. 8-R-2639.
United States Rubber, chapter No. 196, case No. 21-R-3484.
Bowen Products, chapter No. 200, case No. 7-R-2695.

Westinghouse Electric, chapter No 215, case No. 1-R-3091.
 Westinghouse Electric, chapter No. 215, case No. 1-R-3089.
 Colgate-Palmolive Peet Co., chapter No. 218, case No. 91-R-1332.
 Plankinton Packing Co., chapter No. 219, case No. 13-R-3562.
 Wagner-Electric Corporation, chapter No. 237, case No. 14-R-1472.
 Globe Steel Tubes Co., chapter No. 242, case No. 13-R-3893.
 Emerson Electric Manufacturing, chapter No. 249, case No. 14-R-1556.
 Cudahy Packing Co., chapter No. 253, case No. 18-R-1556.
 Aluminum Co. of America, chapter No. 254, case No.
 Monroe Paper Products, chapter No. 316, case No. 7-R-2605.
 The Lionel Corp., chapter No. 319, case No. 2-R-7792.
 Publix Metal Products, chapter No. 324, case No. 2-R-7814.

All of these cases were dismissed under Taft-Hartley Act.

LIST OF CHAPTERS THAT THE FOREMAN'S ASSOCIATION OF AMERICA HAD REFUSAL TO BARGAIN CASES PENDING BEFORE THE NLRB AT THE TIME OF THE LABOR-MANAGEMENT RELATIONS ACT

Chrysler Chapter No. 3, case No. 7-C-1707.
 Hudson Motor, chapter No. 6, case No. 7-C-1644.
 United States Rubber, chapter No. 8, case No. 7-C-1695.
 Youngstown Sheet & Tube, chapter No. 39, case No. (not designated).
 Simmons Company, chapter No. 54, case No. 2-C-6244.
 B. F. Goodrich Co., chapter No. 98, case No. 8-C-1916.
 White Motor Co., chapter No. 102, case No. 8-C-2031.
 Midland Steel Products, chapter No. 105, case No. 8-C-1963.
 Auto-Lite Battery Corp., chapter No. 117, case No. (not designated).
 L. A. Young Spring & Wire, chapter No. 155, case No. 21-C-2716.
 American Brakeblok, chapter No. 174, case No. 7-C-1653.
 Federal Motor Truck Co., chapter No. 187, case No. 7-C-1576.
 Westinghouse Electric Corp., chapter No. 215, case No. 1-C-2489.
 Aluminum Co. of America, chapter No. 254, case No. 2-C-6506.
 Firestone Tire & Rubber Co., chapter No. 255, case No. 15-M-C-1.

All of these cases were dismissed under Taft-Hartley Act.

LIST OF CHAPTERS THAT THE FOREMAN'S ASSOCIATION OF AMERICA HAD UNFAIR LABOR PRACTICE CHARGE CASES OTHER THAN REFUSAL TO BARGAIN PENDING BEFORE THE NLRB AT TIME OF LABOR-MANAGEMENT RELATIONS ACT

Briggs Manufacturing Co., chapter No. 2, case No. 7-C-1339.
 Bohn Aluminum, chapter No. 30, case No. 7-C-1646.
 Republic Steel Corp., chapter No. 43, case No. 8-C-1569.
 Carnegie-Illinois Steel Corp., chapter No. 44, case No. 13-C-2799.
 Carnegie-Illinois Steel Corp., chapter No. 44, case No. 13-C-3048.
 American Steel Foundries, chapter No. 57, case No. 13-C-2283.
 Bohn Aluminum Corp., chapter No. 66, case No. 7-C-1264.
 Budd Manufacturing Co., chapter 77-R, case No. 7-C-1305.
 Pullman Standard Mfg., chapter No. 92, case No. 13-C-2415.
 Pullman Standard Mfg., chapter No. 92, case No. 13-C-2439.
 Allied Steel Castings Corp., chapter No. 96, case No. 13-C-2885.
 E. A. Laboratories, Inc., chapter No. 104, case No. 2-C-6259.
 Midland Steel Products, chapter No. 105, case No. 8-C-2161.
 Midland Steel Products, chapter No. 105, case No. (not designated).
 Lakey Foundry & Machine Co., chapter No. 136, case No. 7-C-1384.
 National Malleable Steel Castings, chapter No. 143, case No. 6-C-1038.
 Wilson Foundry & Machine Co., chapter No. 211, case No. 7-C-1440.
 Globe Wernicke Co., chapter No. 228, case No. (not designated).
 Jones & Laughlin Steel Corp., chapter No. 272, case No. 6-C-1039.
 General Tire and Rubber Co., chapter No. 293, case No. 8-C-1944.
 Republic Steel Corp., chapter No. 296, case No. 8-C-1941.

Most of these cases were dismissed under Taft-Hartley law and all cases filed since.

Senator MURRAY. In those cases where your organization is not recognized by the employer, has your organization any dealings or relations with the management there at all?

Mr. BROWN. No.

Senator MURRAY. You have no established relations with them at all?

Mr. BROWN. None.

Senator MURRAY. What is your judgment with reference to whether or not foremen are a part of management?

Mr. BROWN. We believe that they are agents of management rather than part of management because foremen do not formulate employer policy. They are handed orders the same as any other man or employee.

It is their duty to see that those orders are carried out. They have no part in formulating these orders, whether it be the number of hours to be worked, the number of pieces to be made, or the number of units to be finished. So we rather think that they are agents of management rather than being part of management.

Senator MURRAY. You know of no reason why they should not be permitted to organize and to carry on relations with management the same as other unions?

Mr. BROWN. I think that the best answer to that question, Mr. Senator, is that the foremen themselves perform these functions and if they felt that they were properly a part of management and all that that term implies, they would not seek organization.

Senator HILL. Will the Senator yield for a moment?

Senator MURRAY. I yield.

Senator HILL. Are you familiar with the opinion which I think was written by Mr. Justice Jackson in the Packard case?

Mr. BROWN. I have read that; I believe I have it here.

Senator HILL. Do you have an excerpt from that decision in which he discusses this question about foremen?

Mr. BROWN. That is, Justice Jackson's decision?

Senator HILL. Yes. I thought at that point in the record it should be put in.

Mr. BROWN. It is our case, the Packard case.

Senator HILL. Don't read the whole decision, but could you put in a word or two of what Justice Jackson said?

Mr. BROWN. I think I have it incorporated in my statement.

Senator HILL. If it is in your statement, we will put it at this point in the record if you haven't got it before you.

Senator MURRAY. I have it right here.

Mr. BROWN. Mr. Justice Jackson's opinion in the Packard case.

Senator HILL. Mr. Chairman, I don't want to take up too much time. Why not just insert that in the record?

Mr. BROWN. This is short. It won't take but a minute to read it. It reads:

The company's argument is really addressed to the undesirability of permitting foremen to organize. It wants selfless representatives of its interest. It fears that if foremen combine to bargain advantages for themselves, they will sometimes be governed by interests of their own or of their fellow foremen, rather than by the company's interest. There is nothing new in this argument. It is rooted in the misconception that because the employer has the right to wholehearted loyalty in the performance of the contract of employment, the employee does not have the right to protect his independent and adverse interest in the terms of the contract itself and the conditions of work.

Even those who act for the employer in some matters, including the service of standing between management and manual labor, still have interests of their own as employees. Though the foreman is the faithful representative of the

employer in maintaining a production schedule, his interest properly may be adverse to that of the employer when it comes to fixing his own wages, hours, seniority rights or working conditions. He does not lose his right to serve himself in these respects because he serves his master in others.

Senator DONNELL. Do you have the Supreme Court citation?

Mr. ROSENBERG. 330 U. S. 485, page 488.

Senator DONNELL. Would the Senator permit at this point one very short paragraph from Mr. Justice Jackson's opinion to be inserted for the convenience of the record, if I might read it?

Senator HILL. Yes.

Senator DONNELL. At page 493 Mr. Justice Jackson says:

It is also urged upon us most seriously that unionization of foremen is from many points bad industrial policy, that it puts the union foreman in the position of serving two masters, divides his loyalty, and makes generally for bad relations between management and labor. However we might appraise the force of these arguments as a policy matter, we are not authorized to base decisions of a question of law upon them. They concern the wisdom of the legislation, they cannot alter the meaning of otherwise plain provisions.

I thank you, Senator.

I would like to have the record show it was at my request that this was inserted.

Senator HILL. By all means, not at my request.

Senator DONNELL. I think it might be of some importance to point out that that portion of Justice Jackson's decision was not inserted by the witness.

Senator HILL. I want to say that the witness was just asked to insert an excerpt. I cautioned him not to put the whole decision in the record, because I didn't want to take time.

Senator DONNELL. The excerpt which was put in was in his type-written statement here and does not include the part I read. I want the record to show that.

Senator MURRAY. Is the foreman's organization a labor organization, a labor union?

Mr. BROWN. Yes. We were determined to be a labor organization under the Wagner Act. Also under the Taft-Hartley Act I believe this was established by the Sixth Circuit Court of Appeals in the Edward G. Budd case. I believe we have the number of the case.

Senator MURRAY. What was the name?

Mr. BROWN. Edward G. Budd Manufacturing Co.

Senator MURRAY. That is in 169 Fed. (2d) 571.

Mr. BROWN. That is right. We also organized for the purpose of collective bargaining. That is the very purpose of our organization.

Senator MURRAY. That is all.

Senator HILL. Mr. Brown, could you tell us how many foremen in the United States are denied the right of collective bargaining under the Taft-Hartley law?

Mr. BROWN. I can't state the exact number, but I believe there are in excess of 2 million. I base that on our figures for the ratio of foremen to employees in the industries in which we are organized, and the ratio runs around 1 foreman to 20 employees.

Senator HILL. You spoke of reprisals and discriminations on the part of the employers under the Taft-Hartley law because of membership in the Foreman's Association of America. Have these reprisals and discriminations existed.

Mr. BROWN. Yes. I stated a few cases here a moment ago. However, there are many others that we could cite. I don't have all of them with me. I just picked out a few when I came down here.

Senator HILL. You have already put a few in the record, have you?

Mr. BROWN. Yes.

Senator HILL. Have you some additional ones there?

Mr. BROWN. Well, I can state one, for instance.

Senator HILL. I didn't care to go into the case. I thought if you had a statement as to additional cases, we might put them in the record, but I don't want to take up too much time.

Mr. BROWN. We will give some additional cases for the record. One, for instance, is at the Ford Motor Co., where a new policy has been inaugurated discharging all foremen who reach the age of 65. They are also now required, as I understand it, to sign a "yellow dog" contract when they are employed by the company.

Senator HILL. I believe you testified, Mr. Brown, that the Taft-Hartley Act had not eliminated strikes by foremen; is that correct?

Mr. BROWN. It has reduced strikes but has not eliminated strikes.

Senator HILL. I unfortunately had to go by another committee first before coming here. In your direct statement did you go into the question of how under the Taft-Hartley Act the Foreman's Association has been unable to obtain the same gains in wages and other conditions of employment as unions which have access to the machinery of the National Labor Relations Board?

Mr. BROWN. We went into that earlier.

Senator HILL. You gave the citation from the Budd case as to whether or not the Foreman's Association is a labor organization?

Mr. BROWN. That is right.

Senator HILL. You put that in the record?

Mr. BROWN. I don't know if that is in the record.

Senator HILL. You gave the citation, I think.

Mr. BROWN. I would like to read that, though. I have it here before me.

Senator HILL. It is brief; is it not?

Mr. BROWN. Yes.

Senator HILL. All right.

Mr. BROWN. It reads:

We believe it is clear that Congress intended by the enactment of the Labor-Management Relations Act that employers be free in the future to discharge supervisors for joining a union, and to interfere with their union activities. The cease-and-desist provisions of the Board's order would enjoin the respondent from engaging in conduct in the future which is now unlawful. They should, accordingly, be set aside.

Senator MURRAY. I understood you to say your organization has a contract with the Kaiser-Frazer Co.

Mr. BROWN. That is true, we have been recognized as bargaining agent in three plants; small plants, medium-sized plant, and a large-sized plant.

Now, there has been quite a lot of testimony here against the proposition that the foreman had an equal right as other employees under the act. Many have claimed that industrial chaos would result from this privilege, and I have asked Mr. Morton, who is the industrial-relations counsel for the Kaiser-Frazer Corp., to come down here, and if

the committee has any questions to direct at him in regard to our relationship, I know he would attempt to answer them.

Senator MURRAY. I would like to ask him to state briefly what the contract is, and how it has operated in your company.

Mr. MORTON. Senator, my name is Harry F. Morton. I live in Concord, Calif.

Senator DONNELL. Would you speak a little louder, please?

Mr. MORTON. I am sorry. I will try my best.

I am industrial-relations counsel for Mr. Kaiser and for all of the companies which he controls or manages, among them being the Kaiser-Frazer Corp.

I came here at the request of Mr. Carl Brown, president of the Foreman's Association of America, not as a prophet or teacher, or to give you any advice, but solely to tell you in an honest manner just what the relations of our company and his association have been.

I think the Foreman's Association is entitled to it, and I appear here as a representative of the Kaiser-Frazer Corp. in that respect.

I have not prepared any statement. Unionized foremen are nothing to us. We are engaged in quite a varied number of enterprises. One of our earliest was construction, the construction of large dams, bridges.

During the war we operated a number of shipyards, aircraft factories, and so on.

We still have a lot of various plants in operation.

In construction all our foremen were members of unions, members of particular unions in which the workmen were members. During the war, in our shipyards, the foremen—that is, the first-line supervision—the leadmen, belonged to the union, and the foreman immediately above him likewise belonged to the union.

I think it is a well-known fact that during the war, with an employment of around 250,000 people in the yards which we managed, we had neither any work stoppages nor any serious labor conflicts. The only stoppage of any kind that took place at all was a stoppage which lasted no longer than about an hour, and it was a jurisdictional dispute where a group of employees undertook to organize another union and it failed.

The first experience we had with the Foreman's Association of America was at the plant which had been an aircraft factory known as Fleetwings, known as Kaiser Fleetwings, at Bristol, Pa.

The Foreman's Association was certified by the Board. We contested before the Board the inclusion of general foremen in the certification. The Board did certify general foremen as well as foremen.

We have never formalized a contract at Kaiser Fleetwings. We have gone along from the time of the certification until now on an exchange of letters of understanding. We have never had a dispute; we have never had a difference of opinion.

The next experience that we had with the Foreman's Association was when the National Labor Relations Board on October 14, 1946, certified the association as the representative of foremen and general foremen at the Willow Run plant. At Willow Run, at peak we had about 540 foremen and general foremen.

At low, we have now 375, the balance being temporarily laid off.

We negotiated our first contract on December 2, 1946. That contract does not contain a seniority clause. I do not know whether

Mr. Brown has offered our contract in evidence. Up to that time the only contract that I was familiar with with the Foreman's Association of America with a large firm was at the Ford Motor Co. I saw a copy of it in one of the publications of the Industrial Conference Board.

I urged Mr. Brown's predecessor—Mr. Brown was the negotiator at the time for the foremen's committee—not to insist upon the seniority provision in the contract.

In lieu of that we agreed, and the contract presently provides, that we will discuss with the foremen's committee any change of status of a foreman, and conceded to them the right to take up through the grievance procedure any matter which seemed to them improperly handled by us. That was on December 2, 1946.

We have amended the contract since then, June 1947, April 1948, and July 2, 1948.

During that time we had four grievances, notwithstanding the fact that we have had two substantial lay-offs of foremen as well as production workers.

We did not hew to the seniority line, but in each case invariably before the lay-off took place or during the course of the lay-off we discussed with the foremen's committee our reasons as to why we took a junior, why we kept a junior and laid off the senior.

There were four grievances filed altogether from December 2, 1946, at Willow Run up to now.

There was only one grievance which went to strike formally, which just preceded arbitration. That grievance was determined by Mr. Brown for the Foreman's Association, and myself for the corporation, and the corporation was sustained.

At Detroit Engine Division—

Senator MURRAY. We are slightly pressed for time, and if you could abbreviate that as much as possible, it would be appreciated.

Mr. MORTON. Yes, sir.

At the Detroit Engine Division, which is a plant which we took over from Continental Motors Corp., we have 165 foremen at a peak, and about 76 now.

The Board certified the foremen there on April 22, 1947. That contract parallels the contract at Willow Run pretty much. They are practically identical. There are some slight differences. There, too, there is no seniority provision in the contract. There, too, we do not follow closely with respect to seniority in laying off employees or in promotion, demotion, or change of status.

We brought in during that period of time by recruitment from colleges in this country, two groups of trainees for training to executive positions. The Foreman's Association was told about it. They knew it at the time; all the young men with us, they are going through the ranks of foremen, going on beyond. Foremen know very well that those men will ultimately be the managers and the highest executives in the corporation.

We have had fine cooperation from the Foreman's Association, a great deal of help in the training of these young men. None of these young men were laid off while foremen were being laid off, and no complaint was made on that score.

I might say this one more thing, Senator: Unless we are prohibited by law, unless Congress passes a law prohibiting contracts between

supervisory employees and employers, we do not intend to abandon our practice of dealing collectively with foremen in the Kaiser-Frazer Corp.

Senator MURRAY. Your dealings have been mutually agreeable?

Mr. MORTON. Yes, sir.

Senator MURRAY. And satisfactory?

Mr. MORTON. Yes, sir.

Senator MURRAY. That is all.

Are there any other questions?

Senator SMITH. I have got just one or two questions, Mr. Brown, if I might put them to you.

I noticed in your statement with regard to Mr. Gardiner's testimony, in one place you used this expression, an official "of the company not susceptible to unionization." That is on page 3; and on page 6 you use this expression, "superiors who are not susceptible to unionization."

Now, it seems to me this is the heart of this whole discussion. It is a question of what we mean by those terms.

What we tried to do in the Taft-Hartley Act was to define what we meant by an official, if you please, or a superior, if you please, or a supervisor, if you please, and in section 2, paragraph 11, of the Taft-Hartley Act we defined the term "supervisor."

Now, to make the record clear, I am going to read the definition so that we will try to find out what our difference really is.

The definition used in the Taft-Hartley Act is as follows:

The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Now, as I understand Mr. Gardiner's testimony, he covered a similar field to that, and you took exception to some of his inclusions there, and that is really the issue between us and before us.

You will admit probably that there is some area of an employee—or call him an official, if you want to—where the principle of unionization possibly should not apply. I am trying to find out what that is.

Now, I will go further with you than the law goes. I think that the foreman, as such, ought to be allowed to organize and to bargain for their own interests, but I think it is a question of whether they should belong to the same union as the men who are under their supervision. That is the difficulty I have with your position.

In section 14 of the Taft-Hartley Act, this language appears—you are familiar with this—this is paragraph (a) of section 14:

Nothing herein shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this act shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining.

The conclusion that you draw from that, and I think it is a sound conclusion, is that the foremen, under that provision, cannot bargain collectively. Personally, I would not agree to that; I think the foremen, as such, should be able to bargain collectively, but I do not think they should belong to the same union as the men over whom they have supervision.

Now, the whole question then is how we should define either, as you call it, the official of the company "not susceptible to unionization for bargaining purposes," or supervisors, or whether we call them superiors. Is there any way by which we could agree with your foreman's organization as to a definition of "supervisors" so that this problem could be disposed of, because I think it is just a question of language and of what we mean by a supervisor who is the direct representative of the employer?

MR. BROWN. Well, Senator Smith, that question has been posed to us on numerous occasions. In fact, it was posed so much that I wrote out our answer to that.

SENATOR SMITH. I would like to know your answer and see whether you can make a definition.

MR. BROWN. This question cannot be answered adequately by naming titles without qualifying them. I mean by that, the title of the individual, because a degree of responsibility in job duties of a supervisor with a title of superintendent in the employ of one employer may be similar or even identical with that of a supervisor with the title of foreman in the employ of another employer.

Our association was formed in 1941 and since then 324 chapters have been issued to as many organized groups of foremen in approximately 300 companies, representing automobiles, steel, electrical, utility, transportation, textile, and other industrial fields.

Our experience, without exception, proves that only those supervisors up to a certain level in the supervisory ladder are susceptible to unionization. The line of demarcation is clearly drawn at the point where supervisors have an effective part in determining the employer policy.

At this level, the community of interest widens so greatly as to be completely incompatible.

SENATOR SMITH. Then, your test is whether they have any say in the determination of employer policy. I just want to get it into the record to see what the difference is. Is that correct?

MR. BROWN. Yes. When they begin to formulate employer policy, I do not mean just recommend or the fact that they may have a voice in determining employer policies, those foremen are not prone to organization.

I do not speak of foremen; I mean supervisors at a level where the community of interests widens from that of the foreman who is regimented, so to speak.

SENATOR SMITH. Then, you do not think the hiring and firing authority is enough in and of itself. Suppose a foreman has a right to hire and fire under certain regulations laid down, we will say, by the company. Would that fellow be a representative of the company or would he be a foreman in the sense you are talking about?

MR. BROWN. Very few foremen in our organization have that right.

SENATOR SMITH. You will admit that industries vary on that?

MR. BROWN. Yes.

SENATOR SMITH. That is the difficulty. I grant you that is the difficulty with the problem we are dealing with.

MR. BROWN. For instance, we represent the mates and engineers in the employ of the Nicholson Transit Co.

Now, it is traditional in that field the first mate and the chief engineer recommend on firing and hiring and that recommendation is

always carried out—most generally carried out. But mates and engineers have been bargaining for 75 years with the employer. Now, in most mass-production industries in which we are and in which we are organized, such as automobile and rubber, the foremen have belonged to our organization. They can only recommend; they cannot fire nor hire a man. The hiring is done through an employment office by the employment personnel. The foreman seldom sees the man or the new man coming to the plant after he has been hired and put into his department.

Senator SMITH. But there are cases where they do have that authority.

Mr. BROWN. Very few.

Senator SMITH. I realize that there is a big area of difference there, as you pointed out, very well in your analysis of Mr. Gardiner's statement. But did you hear Mr. Gossett yesterday, representing the Ford Motor Co., and hear his story of the attempt they made to deal with the organization of foremen, and the difficulties they got into, and the area in which their foremen have been given authority to operate?

He seemed to feel that from their experience it would be wiser if the foremen were not organized, and were not a part of the workers, as a whole, in the collective-bargaining process.

Let me just pass from that to save time here: Mr. Gardiner has been the man in contact with the work, and he is very popular in New Jersey, as you may know, in the Forstmann Mills, one of our most important textile industries. They have felt from experience—and they have had no labor troubles for 25 years, and they work problems out by bringing the workers in to discuss policies and everything else—but they have felt it wiser not to have the foremen, as such, who directly represent the employer, be a part of the bargaining unit to determine workers' conditions, wages, and so forth. I mean, it is just a question of discretion here, it seems to me, or definition, really, of where we should draw the line. I do not think I have much difference with you, but you and I may not quite agree as to where the definition should come and whether the definition laid down in the Taft-Hartley Act is totally wrong or partly wrong or what.

I would like to have your judgment as to where you would stop on the Taft-Hartley definition.

Mr. BROWN. Well, Senator, we are not down here to seek monopoly on the foreman question, but in respect to being in with the rank and file of the employees, this is not a new question to us.

As I say, our organization was formed back in 1941, and we have been independent since then. None of our foremen belong to rank-and-file organizations. In fact, most contracts that we have, in other words, the feeling that we have, specifically provide that those contracts hinge on our independence. In other words, if at any time we are affiliated, those contracts could become null and void at the discretion of the employer, and we have no objection to inserting that in any contract because we are independent and intend to remain so.

Now, we feel that a foreman cannot properly act as the agent of the employer in his supervisory capacity and belong to the same organization as the rank and file do.

Senator SMITH. You agree with that?

Mr. BROWN. I do. That is our position.

Senator SMITH. You and I are very much together on that point. It is just a question then as to whether you should have the right to bargain collectively in your own interests, and entirely apart from the workers in the plant where you are employed.

Mr. BROWN. Yes.

Senator SMITH. That helps to clarify my thinking on it, and I think it is a very good statement, but I am troubled yet with your definition of what your foreman is whom you organize. Who is he? What authority has he got? That is what we need to find out.

Mr. BROWN. It is pretty hard to describe, to name a line definitely, because the conditions vary in each industry, so that—they also vary by employers.

Senator SMITH. But you indicated that you think he should in some way have a part in the policy-making, if he is going to be looked upon as outside the range of the foremen group.

Mr. BROWN. Yes, I do, as I say—

Senator SMITH. We said here in the Taft-Hartley Act:

If in connection with the foregoing—

after reciting these different qualifications—

the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Now, according to you, most of the complaints you have with respect to Mr. Gardiner's testimony were that the work was merely a routine matter, or work of a routine or clerical nature, and that would be excluded by our Taft-Hartley definition and your bargaining would go on just the same.

Mr. BROWN. The courts have held that we were excluded by the Taft-Hartley Act.

Senator SMITH. But have you put into the record a definition of what you mean by the foremen whom you are claiming the right to have organized? Have you got that clear so that we know what scope it does cover and how it differs from the Taft-Hartley Act definition with respect to supervisors? That is what I am really interested in here, to see if we can possibly take your definition, and put it into legislation that we may think is wise on this point.

Mr. BROWN. I have attempted, in part, to answer that in my reply to Mr. Gardiner's statement there, and—

Senator SMITH. But it seems to me the gist of your reply to Mr. Gardiner's statement is that the foremen you are talking about simply have a merely routine or clerical job to do, and they have no discretion.

Mr. BROWN. The only discretion that he has is that which is blue-printed for him. By that he is assigned to a job or a division in a plant.

Senator SMITH. I think, in spirit, frankly, I think that would be excluded under our definition under the Taft-Hartley Act.

Mr. BROWN. Well, the courts have held otherwise.

Senator SMITH. Well, Mr. Chairman, I will not pursue this further; I will not take too much time. Perhaps my colleague, Senator Donnell, has some questions to ask, so I am just trying to clarify the issue here without coming to a definite conclusion. But I think you and I would not be too far apart if we sat down and discussed this thing.

Mr. BROWN. I would be very glad to do that.

Senator DONNELL. Mr. Brown, I am not so sure that you and I would be so close together as you and Senator Smith would be.

I want to ask you a few questions, however, with respect to your testimony, that is, the prepared testimony, if you will turn to page 2 of it.

By the way, I will ask, Mr. Chairman, that the entire testimony as written out by Mr. Brown here, not merely that which he has testified to this morning, shall be inserted in the record.

Senator MURRAY. I believe it has already been so ordered.

Senator DONNELL. Has it already been? Thank you.

Now, Mr. Brown, you cite certain quotations from the United States Supreme Court decision dated March 10, 1947, in the Packard Motor Car Co. case. Those citations are taken from Mr. Justice Jackson's opinion. That is right, is it not?

Mr. BROWN. Yes.

Senator DONNELL. And added to that was one citation which I requested to be included which had not been included by you. You recall that?

Mr. BROWN. Yes, sir; I do.

Senator DONNELL. Now, Mr. Brown, in the first place, you recall, do you not, that this decision was a 5 to 4 decision? You remember that?

Mr. BROWN. Yes, I cited the majority decision.

Senator DONNELL. Yes. There were 5 in your favor and 4 against you.

Mr. BROWN. That is right.

Senator DONNELL. And the four against you included Mr. Justice Douglas, who wrote an opinion, did he not, a dissenting opinion in the case?

Mr. BROWN. Yes.

Senator DONNELL. In that dissenting opinion he was joined in by the Chief Justice, and that would be Mr. Vinson, Mr. Justice Vinson, and a former colleague of the Senators who are here today, namely, Mr. Justice Burton, and also by Mr. Justice Frankfurter, except as to one part, which is referred to on page 501 of the decision. All right.

Mr. Brown, I notice with some interest the fact that on page 2 of your written statement you have set forth two paragraphs purporting to be, and I think they are, from Mr. Justice Jackson's opinion.

Why was it that you reversed the order of those two paragraphs from the way they appear in the Supreme Court decision? Why did you not follow the order of the Supreme Court decision? Why did you not follow the order that Mr. Justice Jackson uses in those two quotations?

Mr. BROWN. I do not know why.

Senator DONNELL. You do not know why?

Mr. BROWN. No.

Senator DONNELL. Did you prepare your statement that you have here today?

Mr. BROWN. Yes.

Senator DONNELL. Very well. The fact is, is it not—this is your counsel sitting by you? What is your name?

Mr. ROSENBERG. Allan Rosenberg.

Senator DONNELL. Allan Rosenberg?

Mr. ROSENBERG. That is right.

Senator DONNELL. And you have a copy of this decision here? I will ask you to state first, Mr. Brown, whether it is true that at page 488, which was the page that Mr. Rosenberg gave me a while ago, and which, by the way, is inadvertently not the page on which appear the citations which are in your statement, but at page 488, near the top of the page, this language appears:

The company asserted that foremen were not "employees" entitled to the advantages of the Labor Act, and refused to bargain with the union. After hearing on charge of unfair labor practice, the Board issued the usual cease and desist order. The company resisted and challenged the validity of the order. The judgment of the court below decreed its enforcement, and we granted certiorari.

Then I eliminate the citations there. Then the Court proceeds:

The issue of law as to the power of the National Labor Relations Board under the National Labor Relations Act is simple, and our only function is to determine whether the order of the Board is authorized by the statute.

You observe that, do you not?

Mr. BROWN. That is right.

Senator DONNELL. And that the Court there says that its only function is to determine whether the order of the Board is authorized by the statute.

Now, I take it then, Mr. Brown, would you not agree with this, that the Court itself is indicating there that the question before it is not a discussion of the merits of the foremen's claim, on the one hand, and the employers' on the other, as regarding the right to organize, or to be represented in collective bargaining with the employer, but the question is solely a legal question of the National Labor Relations Act as to whether or not foremen are included within the term "employees." That is a correct statement, is it not?

Mr. BROWN. That is not only established here but it was established in the Edward G. Budd Manufacturing case.

Senator DONNELL. That is the point, that foremen are included within the term "employees" under the Wagner Act, is the point that is decided in both the Packard case and the Edward G. Budd case, and that is the only point decided in this decision, and in the Packard case, is it not?

Mr. BROWN. At this point—

Senator DONNELL. Just answer that question.

Mr. BROWN. Yes, that is right, but why I am mentioning the Budd case is that the Court also determined that foremen were not employees within the meaning of the act or the Taft-Hartley law.

Senator DONNELL. That is all right, certainly not. That is perfectly clear under the Taft-Hartley Act. What I am getting at is that this discussion, however interesting it may be, by Mr. Justice Jackson, and it may have some relevancy, I am not questioning the relevancy on the legal point, but nevertheless the only actual function, as the Court says, and I quote:

Our only function is to determine whether the order of the Board is authorized by the statute.

That is right, is it not?

Mr. BROWN. That was the only question before the Court.

Senator DONNELL. All right.

Now, in your written statement here, you have taken a portion of page 490, beginning with the words:

The company's argument is really addressed to the undesirability of permitting foremen to organize.

You have inserted that in your statement ahead of a portion which appears on the previous page, 489, which starts out, "Even those who act for the employer in some matters," and so forth.

Mr. Brown, let me call to your attention this fact, and ask you if this is not the reason that you have exchanged the order of those two statements.

The last sentence in the portion which starts on page 489 reads as follows, which you do not set forth here:

And we see no basis in this act whatever for holding that foremen are forbidden the protection of the act when they take collective action to protect their collective interests.

This is what I want to call to your attention, and ask you if that is not correct: Had you used these two paragraphs in their correct order, as they appear in the decision, you would have necessarily had to do one of two things when you got down to these words, "serves his master in others." You would have had to put in that sentence which I have just read, which refers particularly to the fact that it is the basis in the act that the court is considering, you would have either had to put that in or you would have had to put dashes between the portion quoted and the next paragraph starting with, "The company's argument," and so forth. That, of course, would have emphasized the fact that what the court had before it was a construction of the act and, therefore, you exchanged the order so that when you got down to the last part, the part which appears first in the opinion, but which you put in last, you did not have to indicate that by anything at all.

Now, isn't that the reason you did that?

Mr. BROWN. No; that was not the reason why I did it.

Senator DONNELL. Why did you do that?

Mr. BROWN. I do not know why I put one ahead of the other.

Senator DONNELL. Did you write this statement at all?

Mr. BROWN. I did.

Senator MURRAY. If you will permit me to make a statement—

Senator DONNELL. Yes.

Senator MURRAY. I assume the witness was not a lawyer and was not purporting to prepare a brief for the court. He may have copied this from some magazine article or some other piece of paper that he had before him, and the language seemed to be appropriate, and he put it in in that form. He is not a lawyer, and is not purporting to be a lawyer.

Senator DONNELL. Well, we will see about that.

Did you copy this from a magazine article?

Mr. BROWN. I do not know where I copied it from. It was not from the book. I believe it was a court decision in pamphlet form.

Senator DONNELL. Do you have that decision in pamphlet form here?

Mr. BROWN. I was looking for it.

Senator MURRAY. If you find it, you can insert it in the record.

Senator DONNELL. Yes; but what I wanted to point out is he will find if he has the pamphlet which is issued by the United States Supreme Court, he will undoubtedly find that the order is exactly as I have indicated it is on pages 489 and 490. Is that it there?

Mr. BROWN. This may not be the one, but I assume it is in there.

Senator DONNELL. Well, your counsel can find it there very quickly.

Senator HUMPHREY. Mr. Chairman, is there a real reason why there should be this sequence?

Senator DONNELL. Yes, there is.

Senator HUMPHREY. I mean, I did not get the point.

Senator DONNELL. There is quite a clear reason, and for some reason it has been changed in its sequence.

Senator HUMPHREY. What is the reason? I would like to know, seriously.

Senator DONNELL. I beg pardon?

Senator HUMPHREY. What is the purpose of it?

Senator DONNELL. The point is this is a case from which the witness is quoting, and I am going to interrogate him closer as to just who assisted in the writing of this brief that he has filed, in which this case is quoted, and various matters relating to, perhaps you might call it, economics or the functions of employers, and the fears of management—

the fears that a foreman can be governed by individuals and interests other than themselves or their own, and the alleged rooting in the misconception of this argument, because the employer has the right to wholehearted loyalty—

and so forth.

Now all that may have some relation. I am inclined to think, just offhand, without a careful study, that it is dictum, although I might be in error on that in a very careful study of the case. But obviously had these two paragraphs been set out in this testimony in their correct order, the witness would have been compelled to do one of two things. He would either have to set out the sentence I have quoted, which refers to the act in two places, or else indicate by dashes or stars or some other appropriate means that there had been an omission, whereas by changing the order of the two paragraphs he avoids the necessity of any such indication.

Now, have you found the place in the pamphlet, Mr. Rosenberg? Let me see, that is page—all right, I will ask Mr. Rosenberg if I am not correct, would you just look here——

Mr. ROSENBERG. There is no question about it.

Senator DONNELL. The order, as it appears in this pamphlet which is issued by the Supreme Court, is it not—this is obtained from the Supreme Court, is it not?

Mr. ROSENBERG. Yes.

Senator DONNELL. The order of the paragraph is precisely the same as it appears in the official reports.

Mr. ROSENBERG. No question about it.

Senator DONNELL. I am correct in my statement?

Mr. ROSENBERG. Yes.

Senator DONNELL. Were there any other magazines or booklets where you found these paragraphs, Mr. Brown?

Mr. BROWN. I would say it was a pamphlet similar to this.

Senator DONNELL. A pamphlet similar to this? Identical with it?

Mr. BROWN. I could not say, but I believe it was the same as this.

Senator DONNELL. That is your best belief.

Now, I refer to the fact also that this was a 5 to 4 decision, and that the 4 included, as I have indicated, the gentlemen that I have named—Messrs. Douglas, Vinson, Burton, and Frankfurter—except as to one portion of the opinion marked “first,” in which Justice Frankfurter did not join.

Now, Mr. Brown, would you turn, please, to your booklet there or to your counsel’s copy of the decision in this bound book, turn to page 494, if you can, Mr. Rosenberg?

Mr. ROSENBERG. My page is a little bit different from yours.

Senator DONNELL. Well, you can see it.

Mr. ROSENBERG. Yes; I have it.

Senator DONNELL. You see down at the bottom of the, let me see, it is the paragraph that begins “The present decision may be a step in that direction.”

Mr. ROSENBERG. Yes, in the opinion of the three.

Senator DONNELL. Of the four. You are quite right, the first of this is under the word “First,” and Mr. Justice Frankfurter did not join in the opinion of the three, and it reads as follows:

“The industrial problem as so defined”—I would be glad to read all this, but it is rather lengthy: If anybody wants it in, I will introduce it all.

Mr. ROSENBERG. Where is that?

Senator DONNELL (reading):

The industrial problem—

is right in the middle of the paragraph—

The present decision may be a step in that direction.

Mr. ROSENBERG. I see it.

Senator DONNELL (reading):

The industrial problem as so defined comes down to a contest over a fair division of the gross receipts of industry between these two groups. The struggle for control or power between management and labor becomes secondary to a growing unity in their common demand on ownership.

I do not believe—

I am still quoting—

I do not believe this is an exaggerated statement of the basic policy question—

I may pause at that moment to say that although the word “I” is there, as your counsel will agree, this was joined in by the three, that is, there were three Justices who expressed that opinion.

I do not believe this is an exaggerated statement of the basic policy questions which underlie the present decision. For if foremen are “employees” within the meaning of the National Labor Relations Act, so are vice presidents, managers, assistant managers, superintendents, assistant superintendents—indeed, all who are on the pay roll of the company, including the president; all who are commonly referred to as the management, with the exception of the directors. If a union of vice presidents applied for recognition as a collective bargaining agency, I do not see how we could deny it and yet allow the present application. But once vice presidents, managers, superintendents, foremen, all are unionized, management and labor will become more of a solid phalanx than separate factions in warring camps. Indeed, the thought of some labor leaders that if those in the hierarchy above the workers are unionized, they will be more sympathetic with the claims of those below them, is a manifestation of the same idea.

The citation given by the Court is an article in Fortune magazine, The Foreman Abdicates. He also cites Levenstein, Labor Today and Tomorrow.

I have quoted it correctly, have I not, from the dissenting opinion?

Now, the facts of this opinion are recognized also by Mr. Justice Jackson in the majority opinion, at least by a footnote on page 490, as follows:

If a union of vice presidents, presidents, or others of like relationship to a corporation comes here claiming rights under this act, it will be time enough then to point out the obvious and relevant differences between the 1,100 foremen of this company and the corporation officers elected by the board of directors.

I call your attention to these facts, and I may say inferentially that it may be that what the dissenters have said here is dictum. I do not know whether or not, without a careful study of the case, that is so. But I just want to point out for the record here that whereas four expressed in the language of Mr. Justice Jackson the opinion which you have quoted, and have quoted in inverse order, as I have indicated, three of them expressed the opinion, or make the statement, I should say, that I have just read, which is diametrically opposed to views which you assert, and which are asserted in Mr. Justice Jackson's opinion.

Now, I am not unmindful of the fact that Mr. Justice Jackson's opinion is the majority opinion, but where you have 5 on one side and 3 on the other, I should have said it was 5 to 3 instead of 4 to 3, it is, at least, rather indicative of the fact that there may be some possible basis of difference of opinion. You agree to that?

Mr. BROWN. I agree there is a basis for a difference of opinion.

Senator DONNELL. And some basis, I say—you do not think the others are right, but they do not think you are right, either.

Mr. BROWN. If there was not a difference of opinion, there would be no need for collective bargaining.

Senator DONNELL. All right.

Now, Mr. Brown, I asked you who prepared this statement.

Mr. BROWN. I did.

Senator DONNELL. I know you answered that, and I want to just ask you a little further question. Did you have any help at all?

Mr. BROWN. Who helped? First, Vice President George Phillips, Allen Nelson.

Senator DONNELL. Anybody else?

Mr. BROWN. Secretary treasurer of the organization.

Senator DONNELL. What is his name?

Mr. BROWN. Bonaventura.

Senator DONNELL. Anybody else?

Mr. BROWN. No.

Senator DONNELL. Did your counsel help you?

Mr. BROWN. This was prepared in Detroit, and he lives in Washington.

Senator DONNELL. Did any lawyer assist you in preparing this?

Mr. BROWN. No; he did not.

Senator DONNELL. When you get down to the statement "The assertion is so weak," you say no lawyer had anything to do with that statement, and you are referring to the assertion by employers which

can best be answered—that is, I take it, the best answer that can be made:

The assertion is so weak that it can best be answered in one terse expression supplied by Gen. Anthony Clement McAuliffe in reply to German demands during the Battle of Bastogne: “Nuts.” [Laughter.]

That is the best answer you can make to the argument, as I see, and as I understand that is made by the employer.

Now, Mr. Brown, do you know how much of this statement you actually dictated yourself, this one that is offered for the record, and which I have asked to be incorporated, the one that is signed with your name?

Mr. BROWN. Let me answer it this way.

Senator DONNELL. Just how much of it did you dictate?

Mr. BROWN. I did not dictate any of it.

Senator DONNELL. Who did dictate it?

Mr. BROWN. I am not a lawyer, and I felt this was quite important, so I wrote it out.

Senator DONNELL. You wrote it out?

Mr. BROWN. Yes.

Senator DONNELL. You wrote it out in longhand?

Mr. BROWN. That is right.

Senator DONNELL. You wrote the whole thing out, is that right?

Mr. BROWN. I did.

Senator DONNELL. Yourself?

Mr. BROWN. I did.

Senator DONNELL. And nobody told you what to put in it?

Mr. BROWN. No one told me, but as I said before, we had a conference one day, and I wrote it up the next day.

Senator DONNELL. You wrote it up the next. Very well.

Now, you say here, in the course of this statement that you have written, you are referring to the argument that management has made that foremen, and I am quoting what you say—look at page 2—“Foremen cannot serve two masters.” You say:

This is strictly an implication of divided loyalties. Followed to its ultimate conclusion, once a man becomes a supervisory employee he can have no other loyalty but to his immediate employer. This in effect would deny him the right to join a lodge, church, labor organization, or even to show loyalty to the interests of his own family, or, in the final analysis, loyalty to his country.

Is that the best argument you can make to this point that “foremen cannot serve two masters”?

Mr. BROWN. I do not know if it is the best or not, but that was one of the arguments that was supplied by one of the fellows who worked with me.

Senator DONNELL. He supplied that language then, did he?

Mr. BROWN. That is right.

Senator DONNELL. So, while you wrote all of this out in longhand, some of the language had been supplied to you by somebody else.

Mr. BROWN. That is right.

Senator DONNELL. How much of this language in this 5-page, I believe it is, 4¼-, 4⅛-page statement, was supplied to you by someone else?

Mr. BROWN. I cannot answer that question because in this question No. 2 here, “foremen cannot serve two masters,” we have had quite a lot

of discussion on that, and I would say the entire section was contributed to by the four of us present.

Senator DONNELL. Yes. Well, what you gentlemen did was to work it out together, each fellow giving some language. Did they hand it out and write out what they suggested?

Mr. BROWN. They might have written out part of it.

Senator DONNELL. They may have written out part of it.

Mr. BROWN. In fact, they did.

Senator DONNELL. Do you know what part of it they wrote out and handed to you? What percentage of the whole statement?

Mr. BROWN. I know I wrote the arguments in here supplied by Mr. Justice Jackson.

Senator DONNELL. You wrote that?

Mr. BROWN. Yes; but the first section was supplied by George Phillips.

Senator DONNELL. That is on the "foremen are a part of management"?

Mr. BROWN. No; "Foremen cannot serve two masters."

Senator DONNELL. The first paragraph on that was provided by Mr. George Phillips, you say?

Mr. BROWN. That is right.

Senator DONNELL. I will not go through the whole thing. As a matter of fact, the great proportion of your statement was supplied to you by the other gentlemen who participated.

Mr. BROWN. Part of it was.

Senator DONNELL. I say a fairly great part of it was, was it not?

Mr. BROWN. Yes; it was formed by group discussion.

Senator DONNELL. What I say is that a great part of this was contributed to you.

Mr. BROWN. All officers of the organization.

Senator DONNELL. Yes.

Senator MURRAY. I might suggest at this point that in preparing briefs before the Supreme Court sometimes there are several lawyers who will collaborate in the preparation of the briefs.

Now, the fact that the lawyer presenting the case has not been responsible for all of the language in the brief does not indicate that he is there engaged in an effort to deceive the court.

Senator DONNELL. Oh, no, not at all.

Senator MURRAY. If this witness accepted these statements, and incorporated them in the brief, as being in accordance with his views, it seems to me that his statement is entirely proper, and I do not see any advantage in bringing out all of this lengthy cross-examination and consuming the time of the hearing. [Applause.]

Senator DONNELL. Mr. Chairman, I request that the audience be advised that the Senate rule prohibits applause in the galleries, and certainly it should be prohibited here, and it should prohibit any demonstration. I have as much right as any Senator on this committee, and I do not propose to be intimidated by anybody in this room. The Senators will not do it, and those who do desire to do it, I ask that they be removed from this room, if they do it.

Senator MURRAY (temporarily presiding). Certainly the hearing will be in order, and they must observe that rule. They will not applaud or interrupt the proceeding.

Senator DONNELL. Mr. Brown, I have only one or two very brief questions. In the first place, as I understand, if the Thomas bill, the one that is before us, is enacted, which will mean the reenactment of the Wagner Act, the employer would be required to bargain collectively with foremen, is that correct? That is correct, is it not?

Mr. BROWN. Being required to bargain with foremen after appropriate certification—after the appropriate group was certified by the National Labor Relations Board.

Senator DONNELL. That is right. Under the Taft-Hartley Act, the provision is there, as set forth, that—if Mr. Rosenberg will get it quickly here—section 2, subdivision 3, to the effect that the word “employee” shall not include any individual employed as a supervisor, and I should say, subdivision 11 of paragraph 2:

The term “supervisor” means any individual having authority in the interest of the employer—

did you read that, Senator Smith?

Senator SMITH. Yes; I put that in the record.

Senator DONNELL. And section 14 (a), which reads—

Senator SMITH. I read that, too.

Senator DONNELL. Section 14 (a) has already been read by Senator Smith. That is the difference between the two bills; is it not?

Mr. BROWN. Yes; one excludes us and the other one includes us.

Senator DONNELL. Very well; that is all.

Senator TAFT. I have no questions.

Senator MURRAY. Thank you, Mr. Brown, for your statement, if that concludes your statement, if you have nothing further.

Senator HUMPHREY. Mr. Chairman, in reference to Senator Donnell's cross-examination on the type of material which is presented here and the nature of its composition, as well as the persons who composed it, I think it ought to be quite clear, as we go through these hearings, that we are to assume, no matter who the witness may be who comes in here, that he is responsible for his testimony.

Mr. BROWN. I am responsible for this and I also am responsible—

Senator HUMPHREY. I assume also that we, as a committee, would be much more favorably impressed by testimony that was gathered from a group of people who were vitally concerned in the subject than we would be with the opinionated attitude of one man or even, let me say, the informed attitude of one man.

It is a quality of leadership, may I say, and a quality of statesmanship, and a quality of good sense to consult with other people.

Senator DONNELL. The Senator will also be interested to know whether anyone else beside the witness collaborated in the preparation of it as having a bearing of who it was who made up the opinions; and, second, the portion that emanated from the mind of the witness, I take it.

Senator HUMPHREY. My only purpose in making this statement, Senator Donnell, is that we can have an endless interrogation of every witness as to whether he consulted with his wife, his mother, his brother, his sister, his other relatives or his attorneys in the preparation of testimony.

I want to assume, as one member of the committee, at least, that every witness who comes in here is responsible for whatever statement he may make for the record, and I would likewise like to assume that

the advice of a number of his associates who may have been consulted in the preparation of testimony is of benefit to this committee. I have the feeling that there is an impression being given here that if a witness comes in who is not, let me say, adept at the art of debate or of cross-examination, that he can be somewhat embarrassed by presenting testimony that may have been gathered from consultation with other people. To me, I think, you are to be commended for having consulted, and I do not care who it may have been. I am sure that when the representatives of the chamber of commerce and the representatives of the American Federation of Labor, and the representatives of a business organization, come in here, that they would not be so foolish as to have come in here without having consulted with somebody else prior to their arrival, and any man who has served as a Governor, any man who has served as a Senator, or any man who has served as a mayor or a county commissioner, generally has taken the time to consult with somebody else as to what he says.

That is so if he makes a written statement. We get ourselves into trouble making extemporaneous statements. We cannot consult with others oftentimes on that, but in a written statement we ought to consult, and I, for one, take exception to prolonged interrogation as to who compiled a lot of testimony.

If you sign your name to it, it is good or bad on the basis of your own statement.

Senator TART. May I point out that on legal opinions it is wise to know whether it is a layman's opinion or whether a lawyer prepared it, and what lawyer's opinion it is, so that we may give proper weight to those legal opinions. I think there is that to be said about the origin of the statement.

Senator HUMPHREY. I would surely be willing to say, as far as legal opinions are concerned, it is true. But we are not here in a court of law. Sometimes it is rather hard to remember that. We are here as a committee of the Congress; you are here as a citizen of the United States, and your badges of honor mean absolutely nothing to me. It just depends on whether or not you have been admitted as a witness, and you have been selected by the subcommittee as a witness, and that is good enough for me. I do not always agree with all the witnesses, but I have yet to interrogate any man as to the integrity of his presentation.

Senator DONNELL. Senator Humphrey, I desire to state that I had no objection in the world to any witness consulting with anybody. I think it is a very good thing for him to do that, but I certainly believe that it is entirely proper to put into this record who are the authors, rather than who is the mere spokesman, and I shall certainly not feel myself in the slightest embarrassed or precluded from making at any time I think proper any inquiry to that effect of any witness.

I think we are entitled to know that. If Mr. Brown comes here, we are entitled to know that Mr. Phillips prepared that particular part, that Mr. Brown did——

Senator HUMPHREY. He did not.

Senator DONNELL. He did according to Mr. Brown's statement.

Senator HUMPHREY. Mr. Phillips did not come here this morning. Mr. Brown is here.

Senator DONNELL. Mr. Phillips is not here. We have not had the opportunity of cross-examining him.

Senator HUMPHREY. Then, I move that we change the rules of this committee to the effect that any man who comes here and prepares a statement have his name attached to it. We cannot go through the pedigree nor can we well be here endlessly looking through the pedigrees of people presenting testimony. Actually the man is the agent, just as under the Taft-Hartley Act, and he is responsible as the agent of the group. It does not make any difference what anybody else does, he is responsible for it.

Now, we had an argument here about Taft-Hartley, whether or not it was prepared by the NAM, and I remember the great indignation which arose in this committee on the part of some members of this committee saying, "This is preposterous. We just did not have anything like that happen."

Senator DONNELL. As the evidence fully demonstrated to be the fact.

Senator HUMPHREY. I want to say that I have no evidence that the NAM prepared it. I have some rumor, but I am not going to fill the record with some supercilious idea that I feel deep down in my heart that the NAM prepared the Taft-Hartley law. I think the committee prepared it. It may have been prepared in accordance with the philosophy of NAM, which I think it was.

Senator DONNELL. At least a witness said—

Senator HUMPHREY. I did not say it.

Senator DONNELL. No; I do not think that the Senator did. Perhaps it was a witness, perhaps the contention was made, the statement was made in here, that the NAM, line by line, the statement was, had prepared the Taft-Hartley Act.

Senator HUMPHREY. I think that was—

Senator DONNELL. There was no truth in it. It was not a fact, and I would undertake to say it was perfectly proper to point that thing out.

Senator HUMPHREY. I agree with you.

Senator DONNELL. And if the Senator does not agree with me it is just a difference of opinion which does not change his opinion nor mine.

Mr. BROWN. Mr. Chairman, may I state that I signed the brief. I signed the brief.

Senator MURRAY. And you accept it as your statement and filed it as your statement before this committee.

Mr. BROWN. That is right.

Now, I would like to have the privilege, if I may, of filing a statement on behalf of the association in reply to the statement made by Mr. William T. Gossett, vice president and general counsel of the Ford Motor Co., before the committee yesterday.

Mr. Gossett states that he is new with the Ford Motor Car Co., and I gather most of his statements are gathered from statements and second-hand information, about these things he talked about. I was employed by the Ford Motor Car Co. for over 22 years. I began there January 5, 1923, and obtained a leave of absence January 15, 1945, and I believe that I am better acquainted with the operation of this contract that we did have with Ford than he could possibly be.

For that reason, I would like to submit a statement in reply to him.

Senator TAFT. I so move that it be filed.

Senator MURRAY. Your statement will be carried in the record.
(The statement above referred to was submitted as follows:)

THE POSITION OF FOREMAN'S ASSOCIATION OF AMERICA IN REPLY TO TESTIMONY AND STATEMENT GIVEN TO SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE ON FEBRUARY 16 AND 17, 1949, BY WILLIAM T. GOSSETT, VICE PRESIDENT AND GENERAL COUNSEL, FORD MOTOR CO., SUBMITTED TO SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

(Compiled by a committee of five members of the Foreman's Association of America without advice of counsel at Detroit, Mich., February 20, 1949)

From the foreman standpoint, bargaining relations with the Ford Motor Co. from the first recognition in May 1942 through its various stages, while not entirely satisfactory, did represent growth and development that was not without acceptable compensations to both the company and the union.

As long as supervisors in industry are hired and compensated, either on an hourly rate or salaried basis for their services in performing the functions delegated to them by management, they are employees in this relationship and no amount of categorical statements or misstatements can change the fundamental basis of their position. The problems of management in modern industry may differ between one group of employees and another just as the responsibilities and obligations of one group of employees may differ from those of another group of employees in relation to management.

Mr. Gossett states:

"The problem of supervisory unions is often characterized as a 'labor' problem. This is a fundamental error of great importance. The question involved is rather the ability of management to perform its functions."

It is our contention that this is strictly a labor problem in that the rights of Ford supervisors are involved in their relationship as employees of the Ford Motor Co.

We also want to make it clear that we regard the Ford Motor Co. in its role of employer as being entitled in full measure to the application of our individual abilities and loyalty. Our adherence to our own individual interest through membership in a labor union, namely, the Foreman's Association of America does not in any way impair or diminish our obligation to our employer within the scope of the responsibilities inherent in our position.

The fact that Mr. Gossett has only recently become associated with the Ford Motor Co. may preclude his having a complete insight into the company's past relationship with its foremen, because in all labor relations problems the influence of personalities is always present and leaves its imprint despite the written record.

The signing of the contract between the Ford Motor Co. and the UAW-CIO had an influence on the organization of foremen in the Ford plants, in that a new set of circumstances under which they worked was created. The company failed to furnish guidance for its foremen, and for sometime the individual foreman was forced to struggle with the situation as best he could. At the same time the company markedly failed to take cognizance of the foreman in his economic relationship, until at last, through a spontaneity of action seldom witnessed in the labor world, Foreman's Association of America came into being. Foremen sought membership, rather than becoming members through solicitation, and it was a very small minority who were subsequently solicited to make up the better than 95 percent of Ford foremen who joined Ford Chapter No. 1.

The Foreman's Association of America was formally set up at a meeting in Dearborn, Mich., on November 2, 1941, and within 3 days therefore opened its office at 5746 Schaefer Road, from which address chapter No. 1 has operated since.

In December of 1941 a formal request for recognition was mailed to Mr. Harry Bennett, then heading labor relations for the company. Subsequently a number of other communications were sent and attempts to contact Mr. Bennett were made during the months of January, February, March, April, and May seeking a conference for the purpose of requesting recognition by the company.

On May 22, 1942, the foremen had become so well organized that when a superintendent of the spring and upset building saw fit to fire within the matter of a few hours all of the foremen in his building (totaling 169) for protesting against the discharge of their elected representative for speaking up in their behalf, a crisis developed that eventually lead to recognition of the association

by the company. This event brought to light the fact that arbitrary dictatorial action on the part of management's representative, when it involved an injustice to a foreman who was a member of a labor organization, no longer could be effective. The 169 discharged foremen were asked to return to work the next day, but all refused to return unless their representative was taken back first. Two days after the firing, with production tobogganing in the building without supervision, the company finally agreed to meet with representatives of the association. At this meeting on May 25 the first recognition of the Foreman's Association of America was initiated, and thereafter began the process of setting up the machinery for the effectuation of such recognition. This was settled amicably through negotiations and all the discharged foremen were reinstated without any blemish on their record and reimbursed fully for the time lost.

Despite Mr. Gossett's statement in the last paragraph of page 2 to the effect that late in 1941 the Foreman's Association of America was making promises to weld the so-called management team together, all of the record of that period shows that the activities of the Foreman's Association of America were aimed in behalf of its own membership, and that even the company representatives had no thought of including foremen as part of management, even to the extent of talking to them as a group, until May 25, 1942. The meetings between representatives of the company and of the association during the summer of 1942 took the form of discussions of problems of relationship on an exploratory basis, and not until November 5, 1942, did there emerge the concrete accomplishment in the form of the original rate and classification agreement signed between the Ford Motor Co. and the Foreman's Association of America.

Mr. Gossett chooses not to review the first few years of the relationship between the company and the association, but we believe that this is the important period to be considered in discussing this relationship. This was the period of growth and development. Many ideas were advanced, discussed, and partially accepted or discarded by both sides. This was the period in which the first economic readjustments were agreed upon. This was the period in which the foremen accomplished a reclassification that was a recognized determination of their position in the scheme of things.

The period preceding the signing of the contract of May 9, 1944, was not entirely free of friction, and to any sensible person it could not possibly have been expected to be so—but, by and large, the relationship between the company and its foremen improved. Certainly the willingness of the company to sign a complete labor contract with the Foreman's Association of America on May 9, 1944, is conclusive verification of the foregoing statement. The contract represented a great advance in our relationship over that exhibited in the rate and classification agreement of November 2, 1942, even though this contract was never considered entirely satisfactory by all the foremen nor by all the representatives of management; it did establish a workable relationship.

The principle of arbitration through an impartial chairman of the joint-final-grievance committee was included in the contract of May 9, 1944, but its operation was held in abeyance through differences of opinion with respect to the selection of such impartial chairman for more than a year. It was 2 months later before any case was processed by an umpire due to refusal of the company to submit its portion of the case as required by the supplemental umpire's agreement dated July 13, 1945.

With respect to Mr. Gossett's claim beginning on page 3 and continuing on page 4 of his statement that the company was under no obligation to recognize and deal with the Foreman's Association of America, let us point out that the basic law of the land gave all employees the right to organize and bargain collectively, and that this difference of opinion as to the possible interpretation by the courts of the question of foremen being employees has no valid place in the picture. The facts are that the foremen were organized. They demanded the right to bargain collectively—and that demand was acceded to by the Ford Motor Co., and that is all there was to it.

If the company expected bargaining relationships to function automatically and completely to the satisfaction of the management, it was their own self-delusion that led to their disillusionment. The Foreman's Association of America fully recognized that a contract did not automatically solve the management-employee relationship, but that it had to be interpreted and made to work by day-to-day application of the provisions therein on a reasonable and logical basis.

Under the provisions of the contract there ultimately developed a very large number of foremen grievances that had progressed through the various stages provided for, and were ready to be appealed to the umpire as a result of persist-

ence on the part of the association in pressing the claims of its members and obstinate resistance on the part of the company to the recognition of these claims. It so happened that contracts with other employers covering chapters

- No. 4. Detroit Lubricator Co., Detroit, Mich.
- No. 20. Kaiser-Frazer Corp., Willow Run, Mich.
- No. 52. United Stove Co., Ypsilanti, Mich.
- No. 79. Consolidated Paper Co., Monroe, Mich.
- No. 156. I-T-E Circuit Breaker Co., Philadelphia, Pa.
- No. 159. Great Lakes Licensed Officers' Amalgamated Chapter; Nicholson Transit Co., Ecorse, Mich.; Wabash Railway Co., Detroit, Mich.
- No. 166. General Ceramics & Steatite, Keasbey, N. J.
- No. 183. Kaiser-Fleetwings, Inc., Bristol, Pa.
- No. 186. Lever Bros., Hammond, Ind.
- No. 206. Baldwin Rubber Co., Pontiac, Mich.
- No. 230. Detroit Graphite Co., Detroit, Mich.
- No. 262. Conmar Products Corp., Newark, N. J.
- No. 279. Textileather Corp., Toledo, Ohio.
- No. 303. Hupp Motor Corp., Detroit, Mich.
- No. 322. Kaiser-Frazer (engine division), Detroit, Mich.

contained provisions for arbitration similar to that in the Ford contract. Under none of these contracts has there ever developed the necessity of a case being appealed to the umpire or arbitrator. When negotiations are carried on in good faith, appeals to an arbitrator are seldom necessary.

Those who advocate denial to supervisory employees of the right to protect their own interests do so on the theory that only one interest is involved. An employer-employee relationship by its very nature must include at least two distinct interests—one of which is that of the employer, and the other separate, and sometimes conflicting, is that of the employee, who in this case serves his employer in a supervisory capacity. In a free and democratic economy the interests of one's self and his family must be the primary interest of every individual. When he becomes an employee he thereby enters into a contract, either explicit or implied, to perform certain specific or customary functions in behalf of his employer, but he does not thereby renounce any right or even privilege to protect his own interests. If those interests lead him to combine his efforts with those of his fellow employees in an appropriate group for the purpose of dealing with his employer on a basis of more nearly equal strength, he would be a failure as a free citizen if he did not avail himself of such a medium in his own interests.

If the experience of an employer through the habit of exercising absolute and unrestricted power over all the interests of his supervisory employees has lead him to believe that only the interests of the employer can be taken into consideration, it is a sad state of affairs, and a correction of this impression is now long overdue.

The elements of allegiance, responsibility, morale, and efficiency are intangibles in the employer-employee relationship which are basically dependent upon human reaction both in the employer and the employee group. They cannot be measured in fixed units, nor by their very nature can they be other than resilient and fluctuating. They are good or bad as past or present practices influence them.

The charge that independence of collective action is impossible by one group of employees or another in the same plant is dependent only on whether or not the employer has seen fit to treat the interests of one group or the other in the same manner or from the same viewpoint. A denial of the right of any group of free citizens to confer or to consult with any other group of citizens with respect to their own rights is something that no true American will stand for.

The citation of specific cases by Mr. Gossett as examples of the vacillation of the loyalty of supervisory employees, in the performance of their duties, is so restricted a showing of the routine practices of foremen in the performance of their duties, in which literally thousands of similar incidents were handled daily in the interests of the company, and in such manner as to produce in large volumes the finest products the company has ever turned out. All of these cited instances occurred during a period when the company was reorganizing from war production to the production of automobiles under conditions in which a rank and file union was involved, which was something that had not existed previously in the Ford plants while producing automobiles. The foremen had not at any time previous to this period received instructions from management as to the requirements of the company's new policies. If we are to rely on cited instances to determine whether or not organization among foremen is detrimental

to the requirements of their job, why does the company not bring forth a few of the thousands of cases in its files in which the foremen were not backed up by the company when they did attempt to perform their functions of direction and discipline and orderly conduct of production processes in the traditional manner.

Shortly previous and during the time covered by the cited instances much trouble was occasioned by the development of the habit among the rank and file workers of lining up at the time clocks before the specified quitting time, and excessive loafing in the toilets. In hundreds of cases foremen have docked employees for time thus lost, and have upon repeated occasions been reversed by their supervisors or the labor relations department. These practices, condoned by the company through their disciplinary machinery, were not conducive to the maintenance of morale nor the effectiveness of the foremen. In fact violent assaults upon foremen while attempting to perform their duties in the traditional manner became so frequent that without the self-protection afforded by organization among the foremen themselves, company measures to protect foremen in these cases was admitted by the company to be ineffectual. However, action by the foremen through the association in cooperation with the company and the union ultimately reduced these incidents to a point where they are no longer a problem. Among the assault instances there occurred at least one death and quite a number of serious injuries to foremen.

In answer to the complaint, page 9a, of Mr. Gossett's statement that representatives of the Foreman's Association of America spent excessive time collecting union dues and soliciting membership, we recall that the question of dues collection was a matter of negotiation, and that instead of writing a provision into the contract it was mutually understood that dues would be collected anywhere and anytime. With more than 95 percent of the foremen as members there was practically no solicitation for membership by anyone, either in or out of the plant. As for setting an example to the rank and file union, with the dues check-off and union shop in the UAW contract, it was not necessary for them to follow anyone's example with respect to these two items.

With the authority of the supervisors so undermined by company policy in dealing with union matters, and with inadequate instruction in these policies, is it reasonable to hold foremen responsible for the failure of the company's policies to be carried out?

Contrary to the attempt to indicate that collective bargaining by supervisory employees interferes with recognition of merit and initiative, the facts are that one of the primary incentives to organization among foremen was the resentment against what is known in the shop as "apple polishing." In other words, the placement in preferred positions of men incapable of fulfilling the functions thereof except through the dependence on services of capable and efficient subordinates, who if the strict rule of merit were followed would be the logical candidates for promotion.

The association supports the general rule of seniority only to the extent that it does not interfere with the true recognition of merit and ability. This is shown by the terms of the contract between the company and the association. In the administration of this clause, certainly the interests of any individual foreman affected by promotion or demotion were processed by the association with vigor through the recognized channels provided in the contract.

As early as the preagreement days of late 1942, and following the establishment of the foremen's personnel office by the company in January of 1943, representatives of the association repeatedly complained to the director of that office that the company should have a comprehensive program of training for its foremen, so that every foreman could be better equipped to meet his problems in accordance with the policies of the company. The feeble attempts along this line made by the company for a long time were ineffectual. Only within the past year and that following the strike by the foremen in the summer of 1947 has there been a real effort made by the company along this line, and that effort has been coupled with a program of attempted indoctrinization in the statement that "foremen are part of management," in spite of the fact that no appreciable change in the authority vested in them has been made.

The fact that the Ford Motor Co. and others repeatedly refer to foremen as "part of management" certainly does not make it so, unless foremen are given the authority to set company policy and are treated similarly to those who are now vested with genuine management prerogatives.

Proof of the insignificant part of management foremen are considered to be by the company can be cited in the fact that Form No. 6 (Rev. 9-3-1948) recently prepared by the company and referred to by Mr. Brown in his testi-

mony as "They are also now required, as I understand it, to sign a yellow-dog contract" is just as repugnant to Ford foremen as a yellow-dog contract and can only be considered as being in a yellow-dog category.

Following herewith find photostatic copy of front and back view of the form mentioned above.

Form A
Rev. 9-4-40

Ford Motor Company

SEE REVERSE SIDE
FOR INSTRUCTIONS

A SALARIED PERSONNEL
CHANGE IN STATUS

DATE PREPARED _____ DATE EFFECTIVE _____

NAME OF EMPLOYEE _____ SOC. SEC. NO. _____

(LAST) (FIRST) (INITIAL)

B PERS. REG. NUMBER _____ EMPLOYMENT _____ FORD SERV. DATE _____

HIRE ☐ REHIRE ☐ REINSTATEMENT ☐ PAYROLL TRANSFER ☐ MALE ☐ FEMALE ☐ SINGLE ☐ MARRIED ☐ DATE OF BIRTH _____

LOCATION _____ STAFF OR OPERATION _____ DEPT. OR SECTION _____ NO. _____

CLASS N. _____ CODE _____ EXEMPT ☐ NON EXEMPT ☐ MONTHLY SALARY \$ _____

HAS EMPLOYEE EVER { SERVED IN THE ARMED FORCES? YES ☐ NO ☐ IF YES, GIVE FULL DETAILS UNDER 'REMARKS' SECTION
WORKED WITH FORD MOTOR COMPANY? YES ☐ NO ☐

ADDRESS _____ (IND.) (STREET) (CITY) (ZONE) (STATE)

C-1 TRANSFER ☐ CLASSIFICATION CHANGE ☐ SALARY ADJUSTMENT ☐

FROM _____ TO _____

LOCATION _____ STAFF OR OPERATION _____ DEPT. OR SECTION _____ NO. _____

CLASS N. _____ CODE _____ EXEMPT ☐ NON EXEMPT ☐ MONTHLY SALARY \$ _____

C-2 LOCATION _____ STAFF OR OPERATION _____ DEPT. OR SECTION _____ NO. _____

CLASS N. _____ CODE _____ EXEMPT ☐ NON EXEMPT ☐ MONTHLY SALARY \$ _____

C-3 PREVIOUS ADJUSTMENT (DATE) INCREASE ☐ DECREASE ☐ (AMT.) \$ _____

NEW ADJUSTMENT INCREASE ☐ DECREASE ☐ (AMT.) \$ _____

D TERMINATION _____ FOR USE OF SALARIED PERSONNEL DEPARTMENT

QUIT ☐ LAID OFF ☐ RELEASED ☐ DISCHARGED ☐ RETIRED ☐ DECEASED ☐ SAL. PAID THROUGH _____ LAST DAY WORKED _____

LOCATION _____ STAFF OR OPERATION _____ DEPT. OR SECTION _____ NO. _____

CLASS N. _____ CODE _____ EXEMPT ☐ NON EXEMPT ☐ MONTHLY SALARY \$ _____

HAS EMPLOYEE BEEN NOTIFIED OF { SPECIFIC REASON FOR TERMINATION? YES ☐ NO ☐ FORD SERVICE DATE _____
TERMINATION TWO WEEKS IN ADVANCE? YES ☐ NO ☐

INDICATE UNDER 'REMARKS' YOUR OPINION OF EMPLOYEE SPECIFIC REASON FOR TERMINATION AND WHETHER FUTURE EMPLOYMENT SHOULD BE CONSIDERED

ADDRESS _____ (IND.) (STREET) (CITY) (ZONE) (STATE)

E REMARKS _____

APPROVALS

F-1 RELEASING IMMED. SUPERVISOR _____

AUTH. OFFICIAL _____

F-2 ACCEPTING IMMED. SUPERVISOR _____

AUTH. OFFICIAL _____

F-3 SAL. PERK _____

PAYROLL _____

FOR USE OF SALARIED PERSONNEL DEPARTMENT

26	27-28	29-30	31	32-33	34-35	36	37-38	39	40-41	42-43	44	45	46-47	48-49	50
DATE OF BIRTH	EMPLOYMENT DATE		HIRE	LOCATION		SCORE	MONTHLY SALARY								
51-52	53-54	55-56	57-58	59	60-61	62	63-64	65-66	67-68	69-70	71-72	73-74	75-76	77-78	79-80
ABY. OF NEW ADJ.	EFF. DATE OF NEW ADJ.	LINE	TY. ADJ.	SAL. GR.	CLASSIFICATION NUMBER	CHT. ACCT.	EFF. DATE OF CHANGE	TY. OF CH.							

INSTRUCTIONS

The Placement Section of the Salaried Personnel Department or the Agency responsible for handling personnel transactions should initiate this form of employment.

Employment (initiate one copy, completing sections A, B, and appropriate section of F-3)

The immediate supervisor should initiate this form on Transfer, Classification Change, Salary Adjustment, and Termination. Any combination of Transfer, Classification Change, or Salary Adjustment may be initiated in one transaction. It is important to check the type (or types) of action in the appropriate box (or boxes) when section C is used.

Personnel transactions involving Transfer, Classification Change, or Salary Adjustment should be submitted to the Salaried Personnel Department 10 days prior to the effective date for the Lower Peninsula of Michigan; 20 days prior to the effective date in locations outside the Lower Peninsula of Michigan. The effective date on Transfer, Classification Change and Salary Adjustment should be on either the 1st or 16th of the month.

The specific reasons for all personnel transactions should be explained in detail under the "Remarks" section of this form.

Transfer: Initiate two copies completing sections A, C-1, C-2, E, F-1, and F-2. (When transferring to the hourly pay roll initiate two copies completing sections A, C-1, C-2 (location only), E, and F-1.

NOTE.—When transferring to a new geographical location, complete section C-1 and "Location" only under C-2. The Placement Section of the Salaried Personnel Department or the agency responsible for handling personnel transactions in that location will complete section B.

Classification change: Initiate one copy, completing sections A, C-1, C-2, E, and F-2.

Salary adjustment: Initiate one copy, completing sections A, C-1, C-2, C-3, E, and F-2.

Termination: Initiate one copy, completing sections A, D, E, and F-1.

(For use of salaried personnel department)

EMPLOYMENT STATEMENT

I hereby authorize Ford Motor Co. to deduct from any moneys due or owing me the sum of \$3 for each identification pass; 50 cents for each tool check; 25 cents for each locker key, and the cost of any other equipment received by me while in its employ, which is lost or damaged, or, which I fail to return in good condition (except for ordinary wear and tear in the course of business) upon demand.

I understand that my employment is not for any definite term, and may be terminated at any time, without advance notice, by either myself or Ford Motor Co.; that my employment is subject to such rules, regulations, and personnel practices and policies, and changes therein, as Ford Motor Co. may from time to time adopt; and that my employment shall be subject to such lay-offs, and my compensation to such adjustments, as Ford Motor Co. may from time to time determine.

I understand that medical information disclosed to the company's examining physician is not for treatment as a patient and is not privileged.

I elect to become subject to the provisions of the workman's compensation laws of the State of -----.

(Employee's signature)

The contract of May 9, 1944, provided for a schedule of pay rates for the different classifications of the foremen as a basis for their compensation, but it also provided as follows: "The differential indicates the minimum per hour which a foreman shall be paid over a rate base as follows:". And in another section provides as follows: "(3) The agreed rates for foremen as per schedule section 20 (a) will be minimum rates paid by the company and higher rates may be paid without changing the classification of foremen, upon proper approval." It can be plainly seen that the statement by Mr. Gossett or the implication that the association stood in the way of the company's rewarding any foreman on a merit basis is not a fact.

In answer to the statement beginning in the middle of page 14 of Mr. Gossett's statement, the association might well say: "The situation facing us in the spring of 1947 thus had many aspects:"

A. We did not want to strike.

B. Experience had convinced us that management's conception of a proper supervisor's union was that it should be a company-dominated organization.

C. In the Packard case the National Labor Relations Board had held finally that supervisory employees were employees under the National Labor Relations Act, and that management thereby was obligated to recognize and bargain with them.

D. The foremen through the fact of organization were committed to the principle that if they so chose they could be represented by a labor organization in dealing with their employer on their own employer-employee problems.

The objectives of the company as proposed in a letter dated May 15, 1947, were all properly subject to negotiation under collective bargaining because they very plainly involved the interests of every supervisory employee of the company. The requirement that these objectives, as state in the letter be blindly endorsed by the association as representing the foremen and as demanded therein, did not constitute collective bargaining.

The subject matter of negotiation under collective bargaining cannot in any way form the basis of a conclusion that collective bargaining per se for any group of employees should be outlawed.

Without representation by a strong organization the interests of the individual are overwhelmed by the will of the company.

Let it be noted that the deterioration of the authority of the foreman and the destruction of the traditional respect in which he was held by those under his direction resulted from failure on the part of the company to support him in said authority previous to the time the foremen felt impelled to organize in defense of their position. Credit for rebuilding the respect and prestige with which foremen are held by those under their direction was the result of insistence on the part of the association that the company support their foremen in the performance of their duties.

Circumstances leading to a strike emanate from at least two sources: One being the company, and the other, the group contemplating said strike. A strike, in essence, is a test of economic power inherent in the parties to it—in short, economic war. In toto it is never conclusive. During its existence the resources of one or the other, possibly both, tend toward depletion. When the resources of the weaker party are exhausted the strike comes to an end, but in no way can the circumstances attendant upon it be considered in the determination of the right of employees to equal treatment under the law with respect to their right to collective bargaining.

The conclusions of the management of the Ford Co. with respect to its experience in dealing with the Foreman's Association of America or its predictions based on those experiences are weak arguments indeed upon which to base the denial of equality before the law to supervisory employees. Predictions in the past have proven fallacious, and promises are as good only as the results of the company's practices may indicate.

Despite the assertions and claims made in Mr. Gossett's statement on behalf of the Ford Motor Co. as to the present improved status of their foremen, one must obviously conclude that this has been largely, if not wholly, brought about by the activities of the Foreman's Association of America in the Ford plants.

This question of denying foremen collective-bargaining rights under the Taft-Hartley Act is strictly a labor problem, and the only real issue before the committee is, Will the foreman's interests best be served by granting the same collective-bargaining rights to foremen as are enjoyed by other groups of employees throughout this country, or whether on the other hand the foremen should be denied protection under the law of our land in his efforts to improve his working conditions? Anyone taking the latter view would in effect be placing the foremen in a position of absolute servitude in his day-to-day relationship to his employer. He would be utterly helpless before the whims and fancies of management changes and/or changing managements, as in the not too recent Ford Motor Co. shake-up when the old management team was released almost in its entirety and a new team recruited.

In conclusion, let us remember that we are not here dealing with the detailed quarrels between the Ford Motor Co. and the Foreman's Association of America, but rather to consider whether or not supervisory employees anywhere in our country should be subjected to group discrimination simply because they perform certain specific functions for their employer.

It is our contention that so long as the employee and employer relationship obtains all employees should be treated equally under the law.

Respectfully submitted.

CARL BROWN,
President, Foreman's Association of America.

STATEMENT OF WILLIAM T. GOSSETT—Resumed

Senator MURRAY. Mr. Gossett, you made your preliminary statement yesterday.

Mr. GOSSETT. Yes.

Senator MURRAY. You are now here for cross-examination.

Mr. GOSSETT. May I have the privilege, Mr. Chairman, of making a brief statement before cross-examination?

Senator MURRAY. That is perfectly satisfactory.

Senator TAFT. You have something to add to your statement?

Senator MURRAY. This is in addition to your preliminary statement. You may proceed.

Mr. GOSSETT. I seem to discern here a tendency to place the problem with which we are dealing in a rather secondary position of importance, and I would like to emphasize that it is the most important problem with which management has to deal today, and one of the salient features of the proposed legislation.

We at the Ford Motor Co. have had a long experience with this very important problem. We did not go into this experience with prejudiced minds. We went into it with open minds in the hope that we could get some help in our management problems by dealing with this association, the Foreman's Association of America, which the last witness represents.

We dealt with that association in the best of good faith for almost 6 years—5½ years. We were disappointed, and we were disillusioned with that experience.

The Foreman's Association very significantly has not denied this morning that we acted in good faith. In fact, they have tacitly admitted that we have. We do not claim, Mr. Chairman, that if we have to deal with the foreman's association or any other organization of unionized employees, that we are going to have industrial chaos.

We have to run a business, and we think it is important that we be able to run that business efficiently and effectively so that we can product the largest possible quantity of products, the best quality of products, and at the lowest possible prices, for the benefit of the public.

I think our records will bear us out on that. Now, management has certain problems and there have been imposed upon management certain obligations. One of the very important obligations imposed upon management is to satisfy not only the stockholders but to satisfy the public—to satisfy the public with the quality of our products, with the price, and with our dealings with our employees and other people with whom we have to deal.

We want to discharge that obligation, and we do not want, if we can avoid it, to have impediments put in our way, and by that I do not mean that we want to do anything that is unfair to organized labor.

On the contrary, Mr. Chairman, we want to be eminently fair to organized labor, and I submit that we always have been.

We are interested in the smooth, effective operation of management; but, Mr. Chairman, when we have driven into the middle of our management team a wedge which makes that team operate with great friction, then we cannot do our job effectively, and that is precisely the experience we had with the Foreman's Association.

We did not come down to try to tell you how to write this bill, but we did come down to tell you sincerely and honestly what our experience has been in dealing with unionization of management.

Now, the Foreman's Association says—he said it repeatedly—that a foreman is nothing but a traffic cop, and that he is subject to the orders of superiors who are not subject to unionization.

What does he mean by that? Because in the last demands that they made, that is the demands they made in connection with the contract which ended our relationship, the new contract which we were then trying to negotiate, he asked this.

He said: "We want to represent not only your foremen. We want to represent general foremen. We want to represent all of your supervisors, clear up to what we call the building superintendent, which in the normal situation is the plant manager."

Now, as Mr. Justice Douglas said: "Who is going to represent the stockholders?" We want to deal with the unions, we want to be fair to the unions, but who is going to represent the stockholders if management is all unionized? If management is all union, there is nobody left. The vice presidents cannot run the plants. They have to have in the plants men who are absolutely loyal.

One of our great problems, Mr. Chairman, is that we have a contract with the union, and the union, I have every right to believe, expects to perform that contract and wants to perform it. I do not charge them with bad faith. We have a lot of friends among the union leaders. We do not always agree with them, but we respect them.

Senator TAFT. You are talking about rank-and-file unions.

Mr. GOSSETT. Exactly. Thank you, for the correction.

They want to perform the contract, but in the plants there is a tendency to get into emotional situations. Something is done that upsets some worker, and, as Mr. Green said yesterday, people are not perfect. They are subject to emotional reactions. We rely upon our foremen for the direct contact between management and the people who work for us and do what we call the labor in our plant.

The foremen in our plants do not do anything but supervise. They are prohibited by contract from doing the work, but we must rely upon the foremen to try to keep down those emotional surges, to keep the men in the plants and to urge them to rely upon the grievance procedure. If we do not have the foremen to do that, who is going to do it?

If the foremen are unionized, if they are just as quick to strike as the rank and file, if they are dependent, wholly dependent, upon the rank-and-file union for their very existence, for their effectiveness, why, of course, they are going to be beholden to the rank-and-file union, and they are not going to try and dissuade the rank-and-file from going out and kicking the grievance procedure over and saying, "Let us strike."

Senator DONNELL. Mr. Gossett, when you referred to what Justice Douglas said, you were referring to the observations concurred in by Chief Justice Vinson and Mr. Justice Burton in the Packard case, previously mentioned in Mr. Brown's testimony this morning.

Mr. GOSSETT. I was, Senator.

Senator DONNELL. Thank you.

Mr. GOSSETT. We had an experience like that which was put in the record here. We tried to make this record a low-pressure thing. We tried to avoid arguing our case like a lawyer would. We just set forth the facts. We had a case that I referred to yesterday.

The CIO had organized a big meeting down in Detroit, a mass rally, and it was in a breach of contract; if the men left their jobs—and that is what they proposed, as Senator Donnell pointed out—if the men left their jobs right in the middle of the day and went down and joined that rally it was in breach of contract.

Of course, we rely on our foremen to say to these men: "Now, do not get emotional about this thing. Stay at your jobs. Do not violate your contract." But what happened? Did they do that? I am sorry to say they did not. I wish I could report that they did.

What they did say was this, the leaders of the association said: "We are a part of the union movement as a whole, and we not only consent but we urge you to go down and join the rally." And they left, over a thousand of our foremen left their jobs, subjected fellow workers to possible injury and property damage, possible damage and destruction and went down and joined that rally.

That is the sort of thing with which we were confronted with in dealing with the Foreman's Association. Our foremen have always been highly respected men. They are highly respected men today, and I do not mean to say a thing to criticize them individually. What we object to is having to deal with them through a bargaining agent.

I am sorry I made that statement so long. I am ready to answer any questions.

Senator MURRAY. Do you wish to ask any questions?

The CHAIRMAN. Senator Humphrey, have you any questions?

Senator HUMPHREY. I read your testimony, your prepared testimony. You just gave your prepared testimony yesterday, did you not?

Mr. GOSSETT. I did, Senator.

Senator HUMPHREY. You had no cross-examination up until now?

Mr. GOSSETT. No; I have not, Senator.

Senator HUMPHREY. And your prepared testimony, as I recall, was specifically directed toward the foremen situation, nothing more than that in the Taft-Hartley law?

Mr. GOSSETT. It was limited to that especially, Mr. Senator, because you see I do not deal with labor relations generally. I am general counsel and am a member of the policy committee of the Ford Motor Co. We regard this as a management problem, and I came down here to relate the facts about that subject.

Senator HUMPHREY. Yes, sir.

Mr. GOSSETT. We feel very deeply about it. We have had this experience. We thought it would be helpful to you to have us relate that experience and tell you the difficulties we have had in trying to deal in our management team with a militant union who kept wanting more and more power and wanted to represent more and more people all the time.

During that period, Mr. Senator, when we dealt with the Foreman's Association we had 14 strikes and many threats of strikes by our foremen. Before we dealt with the Foreman's Association, we never had a strike of foremen, and, as you know the War Labor Board panel held that foremen did not really have grievances, but for various reasons the foremen did get organized in our plants.

Senator HUMPHREY. By the way, how many foremen do you have, just as matter of information?

Mr. GOSSETT. In this country, in all our plants, 43 plants, 6,500 foremen.

Senator HUMPHREY. And had there been organizational efforts in all the plants for all the foremen?

Mr. GOSSETT. Not in all plants; no, sir.

Senator HUMPHREY. Primarily, in your Detroit plant, was it not?

Mr. GOSSETT. Well, I would not say that, but there were exceptions.

Senator HUMPHREY. I mean the major efforts. Of course, that is your big plant.

Mr. GOSSETT. Yes; that is true. We had during that period of 5½ years, 14 strikes and many threats of strikes.

Senator HUMPHREY. I am not too familiar with this problem, and I want to hear what you have to say about it.

Mr. GOSSETT. I want to give you all the facts I can, Senator. The period started when they asked us first to deal with them in November of 1941. You see, we were then engaged in reorganizing our plants to produce war materials.

Senator HUMPHREY. Yes, sir.

Mr. GOSSETT. And we had to promote a lot of rank-and-file people to foremen status, and the wage rates and other things got all out of adjustment, and they asked us to deal with them.

They said, "Perhaps we can help you with this job." We were open-minded. We said, "Certainly, if you can help us, we are willing to listen to you." We dealt with them on an informal basis for several months, and signed a contract with them in November 1942. We dealt with them continuously thereafter until 1947.

During that period we had 14 strikes and many work stoppages, and we lost hundreds of thousands of man-hours. May I express the opinion that those strikes did not improve the status of our foremen one bit.

Since we have terminated our arrangement with the Foremen's Association, we have felt free to do things to improve the status of our foremen and increase their responsibilities as part of our team, which we could not do when we had the association because they insisted on bargaining on everything. We had to get their approval.

If we installed a merit system so it would permit us to pick out fellows with unusual ability who might go up the ladder—they said "No," that we had to rely upon seniority. Why, they clogged the grievance procedure. Forty percent of the grievances were over that single issue, and they took them clear up to the umpire and clogged the grievance procedure just because they said that we could not pick men on the basis of management. Well, that is the very substance of good management. You have to be able to recognize and reward merit quickly, and put men on their way up the ladder.

Our vice presidents who are in charge of production at the Rouge, two of them, both, were foremen, and practically all of their subordinates, Mr. Senator, came up that ladder behind them out of the foremen's group.

Now, the foremen's association says the foreman has no authority. He is just a traffic cop. We deny that most vehemently, Mr. Senator.

Of course, the foreman does not perform the functions of a vice president or even of a superintendent, but a foreman exercises lots of discretion. He exercises judgment. He is our direct contact with the rank and file. He is Mr. Ford, if Mr. Ford could divide himself

up into thousands of pieces. The foreman creates the impression that the rank and file get of the Ford Motor Co. The foreman is the man who creates that impression.

Senator HUMPHREY. Right.

Mr. GOSSETT. Now, if he is a militant unionized man, we simply are not in the position to do the job that we have to do on a management basis. We have no prejudice against unions. I do not think Walter Reuther himself would say that.

I may also cite Mr. Reuther as saying flatly, as he did before a committee of the House or of the Senate—I cannot remember which—“We recognize that you cannot serve two masters. We have never tried to organize foremen for that reason.”

Senator HUMPHREY. You hold a responsible position in the Ford Motor Co. The Ford Motor Co. of recent years has made a determined effort to improve its employer-employee relationships; is that not correct?

Mr. GOSSETT. It has, Mr. Senator.

Senator HUMPHREY. I have heard Henry Ford II speak about his program, what he calls “Human engineering,” which I think is a very good title, and he is to be commended for it.

Mr. GOSSETT. Thank you, sir.

Senator HUMPHREY. I do not want to press you on this. I would just like to ask you a few questions about the labor-management policy in the Ford Motor plant, if you wish to answer them outside the scope of your prepared testimony. It is entirely up to you.

Mr. GOSSETT. I am perfectly willing to answer any questions that I can, Senator. I simply want you to understand my limitations.

Senator HUMPHREY. Yes.

Mr. GOSSETT. You know, when we lawyers put a witness on the stand we have to qualify him, and my qualifications are not very good.

Senator HUMPHREY. Well, I would just like to have you talk to me about this. You seem to be a very fine man. I would like to have you just talk to me as one who is a member of the policy group in the Ford Motor Co. You have had these management meetings, which I think have been conducive to an improvement in your labor-management relationships. Would you make such an evaluation of them?

Mr. GOSSETT. I think they have, very definitely, sir.

Senator HUMPHREY. Now, getting away from the particulars of the foremen's association and the foreman's relationship to the company, when did that change in policy start taking place in the Ford Motor Co.?

Mr. GOSSETT. I would say it started taking place when Mr. Ford got rid of the old Ford management and put in the new Ford management; it was before I came.

Senator HUMPHREY. By the way, Mr. Ford made available to the foremen, I think, at the time of your management conferences, a little pamphlet pertaining to the record of those conferences, which publication became pretty widely distributed, as a matter of fact. Other people got to see them. I do not think he listed them as confidential.

Mr. GOSSETT. On the contrary, Senator, we try to keep our foremen right up-to-date. We make a point of that. We think our foremen ought to be up-to-date, just as much as the vice presidents, the super-

intendants, or any other member of the management group. A foreman is not somebody way down the line to whom we refer and with whom we have dealings by remote control. We have meetings in the plant with our foremen. They express their ideas, and many an idea of a foreman has become the policy of the Ford Motor Co., Senator.

Senator HUMPHREY. Mr. John S. Bugas is your director of labor relations. He has made some very pointed comments in reference to the labor-management relationships in the Ford plant. I notice here in the September 26, 1947, management meeting a quotation that, by the way, is taken from the management records there. I think perhaps you have copies of them with you. I quote from him where he says:

Our negotiation meetings had scarcely begun when the foremen's strike was called. I need not tell you of the harassing effect it had. Again, in this situation we may have had a blessing in disguise due primarily to our ability to sustain production.

Another incident that was a mixed blessing—
and I underline the word "mixed"—

was the passage of the Taft-Hartley law. Its passage unquestionably had an important effect on the foremen's strike. However, as the UAW negotiations lingered on, the act became law in the middle of our negotiations, and because of the new concepts flowing from its provisions, new problems mushroomed in our efforts to come to a prompt agreement.

Was he referring primarily to the legal qualifications that were involved in the Taft-Hartley Act, or some of the legal detail there, do you know?

Mr. GOSSETT. I do not know, sir.

Senator HUMPHREY. You were present, were you not, at the meeting?

Mr. GOSSETT. I was not present when he delivered that. I never talked with him about it. I do not really know what he meant.

I think that the foremen's strike failed without reference to the Taft-Hartley Act. Production continued. A lot of our foremen did not join the strike. We had some very unfortunate incidents.

Those who did not join the strike were submitted to all sorts of abuse and many of them were waylaid and beaten up and put in hospitals. Goon squads went into the plants and took some of them out and beat up superintendents. It was a very unfortunate experience.

Senator HUMPHREY. That is in your foremen's strike?

Mr. GOSSETT. As I said yesterday, Mr. Senator, I think probably the newspapers heralded the end of that strike as a great company victory, but we did not regard it so because we hate strife, trouble with our own employees. We have as much concern, despite the union's claim, for our employees' welfare as they do.

Senator HUMPHREY. Now after the Taft-Hartley Act came into effect there was this union suability clause in the Taft-Hartley Act?

Mr. GOSSETT. Yes.

Senator HUMPHREY. I have information here from your management conferences, particularly this one in September of 1947, that the company and the union, the UAW I am now speaking about, the rank-and-file union, really circumvented a union suability clause. Do you recall that?

Mr. GOSSETT. I do not know what you mean by that term "circumvented," Senator.

Senator HUMPHREY. Went around it.

Mr. GOSSETT. Yes, we tried to work out our differences. I would like to tell you about that.

Senator HUMPHREY. May I, just before you do that, say this: I have this quotation from the director of your labor relations.

Mr. GOSSETT. Bugas?

Senator HUMPHREY. Mr. Bugas. I turn to page 7 of this meeting in September of 1947 in which he says:

In our case we retained the no-strike pledge set forth in sections 1 to 5, inclusive, of this article; and, although we forego the right to enforce financial responsibility upon the union through the courts, we do retain the right to proceed against the individual in the event of illegal stoppage, which right, of course—

Mr. GOSSETT. That was under our contract.

Senator HUMPHREY. That was under your old contract.

Mr. GOSSETT. Yes.

Senator HUMPHREY. As I recall that, you entered into a clause for a period of time, a short period of time which set this union suability aside.

First there was a 3-month, and then an extension, and then you were going to take it out of the area of discussion and get it over here out of the heat, so to speak, so you could look at it a little bit more objectively; is that not correct?

Mr. GOSSETT. Yes; you have a remarkable memory, Senator, if you remember that. I think it was pretty well before the public at the time.

Senator HUMPHREY. There was a lot of discussion about it, as a matter of fact.

Mr. GOSSETT. Yes; there was much in the press. What happened was that the union asked us to waive our right to sue them.

Senator HUMPHREY. That is right.

Mr. GOSSETT. We had the foremen's strike; and when the Taft-Hartley Act was passed, was enacted, it did not come into effect until August 27. During that period the union demanded that we waive our rights.

Senator HUMPHREY. On union suability?

Mr. GOSSETT. To sue the union.

Senator HUMPHREY. Right.

Mr. GOSSETT. And we had quite a negotiation. They threatened to strike. You remember there was quite a bit of publicity about it, and finally we settled that on this basis. The union would appoint a committee of two. We would appoint a committee of two, and we would sit down and try to work out another way of settling our differences.

Senator HUMPHREY. And you did work one out; did you not?

Mr. GOSSETT. We did, sir. The committee met. We could not agree on the language. We got Dr. Schulman in, as we were permitted to do under this arrangement we had, and Dr. Schulman helped us finish that. The language we worked out was this:

Neither the international union nor any local union having jurisdiction over employees covered by this agreement shall be liable for damages on account of any illegitimate strike as defined in section 4 of this article.

That is an unauthorized strike.

Senator HUMPHREY. The wildcat type of strike?

Mr. GOSSETT. Exactly. "If such strike was not authorized, sanctioned, or supported by such union, and if such union, (1)"—this is

what the union had to do—"shall have used reasonable efforts to prevent the strike."

Senator HUMPHREY. Yes, sir.

Mr. Gossett. That was the first requirement. The second requirement was:

Shall have promptly and publicly repudiated the strike.

(3) Shall have immediately ordered the employees affected to return to work.

(4) Shall have used reasonable efforts promptly to terminate the strike.

Senator HUMPHREY. I think those are wonderful provisions. I wish every contract had them.

Mr. Gossett. I was a member of that committee. Mr. Bugas and I were the Ford representatives on the committee, and we said, "We do not want money out of the union. We want the unions leaders to assume their proper responsibility; and, if the men go out on a wildcat strike, first, try to prevent it; second, publicly denounce it, and, third, try to get them back promptly."

Senator HUMPHREY. The language of your contract there is very much similar, is it not, to the United Steel Workers' contract with the United States Steel Co. under their no-strike pledge?

Mr. Gossett. I have heard that it is. I have not compared the two.

Senator HUMPHREY. Under the Taft-Hartley, I think they have refused now to reconsider the no-strike pledge because of union suability.

Mr. Gossett. Yes.

Senator HUMPHREY. Now, just one or two other questions.

Mr. Gossett. May I just continue this story? You have started it. I would like to finish it because I think it is of great interest. The members of that committee, including Dr. Schulman, signed the memorandum containing this language.

Senator HUMPHREY. Yes, sir.

Mr. Gossett. But they wrote on the bottom, the union members did, this language, with our approval:

Subject to rejection by either side on or before Wednesday, May 19.

The point was, each of us had to get the approval of the appropriate governing bodies, they by their executive committee and we by our board of directors. Our board of directors approved that settlement. The executive committee of the union refused to approve it.

In connection with the next contract which we negotiated, they said to us: "We will disregard the Taft-Hartley Act. We will assume any liability there is for unions under the act. We will leave out of the contract any reference to the union-liability provisions out of the act, but we will not take this language."

Senator HUMPHREY. Is that the present situation then?

Mr. Gossett. Our contract does contain a no-strike provision. So, we were quite interested in getting the officers to take some responsibility for doing the things that we thought they should do to prevent strikes and to terminate them, and that is the language we worked out. They did not approve it for some reason.

Senator HUMPHREY. Now, I know that under your contract in 1946, your 1946 contract—well, let me go back. In your 1945 contract, you had a union-security clause?

Mr. Gossett. What we now refer to as our union-security clause. We did not have it in 1945. We got it in our 1946 contract.

Senator HUMPHREY. And also had a company-security clause, and you were able to negotiate that; were you not?

Mr. GOSSETT. Yes; we were.

Senator HUMPHREY. In other words, a matter of joint responsibility on this thing?

Mr. GOSSETT. Exactly.

Senator HUMPHREY. All I am trying to point out to you—I do not want to prolong this because we surely do not wish to dwell on this particular point—but I have been somewhat impressed by what Henry Ford II has attempted to do as the manager of a plant, as the owner of a plant, and one of the great industries of this country, and I have been equally impressed with what I consider to be, at least from my point of view, the statesmanlike qualities of Mr. Reuther in his leadership in the UAW.

I know you have had tough arguments and you have had some serious situations, but there seem to be two groups that are determined to use their heads instead of some other weapons to get these things settled.

I have noticed that all of these things were able to be done around the collective-bargaining table.

Mr. GOSSETT. You mean our Minneapolis plant?

Senator HUMPHREY. Yes, indeed. And I also had the privilege of having Mr. Henry Ford II out to our city, where he spoke to us. I found out that you have in a sense avoided using the Taft-Hartley Act. While the Taft-Hartley law was the law of the land, you and the union have negotiated practically as you were doing before, and I think that you have had a better policy primarily because of the policy of the leadership of your company.

When Mr. Bennett and his group were ousted, and the leadership of the company took this philosophy of human engineering, you began to think about recreation; you began to think about your cafeterias; you began to think about your social-service department; you called in some of the key analysts—public analysts—of this country as to work stoppages, as to labor turn-over. You have cut down your labor turn-over by about 45 percent, have you not?

Mr. GOSSETT. We have, sir.

Senator HUMPHREY. You bet, and you have not done it by legalism; have you?

Mr. GOSSETT. No; we have not.

Senator HUMPHREY. I mean you have not done it by law. You have done it by sound management practices in cooperation with the union around the collective-bargaining table.

Mr. GOSSETT. We have been very fortunate in that, sir.

Senator HUMPHREY. Well, I am going to give you my candid judgment, and I may be criticized roundly by friend and foe alike.

I think that you are beginning to sell a policy that makes good sense in labor-management relationships where you have got away from some of the legalism, even though there have been times that the Taft-Hartley Act has been used. I know that, for example, on union-security election, you had some difficulty as to the date that you were going to set: is that not right, on the union shop?

Mr. GOSSETT. Yes, sir; we did, sir.

Senator HUMPHREY. Actually, what you have tried to do in many instances has been to negotiate across the bargaining table, and when

the law has interfered with those negotiations—and I do not want to accuse you of doing anything illegal, because I do not want to say that you have—but it is like the old race horse. You put the blinkers on the sides so he will not see the bleachers, and he looks right down the path. Is that right?

Mr. GOSSETT. The path of what, sir?

Senator HUMPHREY. The path of peaceful negotiations.

Mr. GOSSETT. We certainly have tried to.

Senator HUMPHREY. Yes, sir. In other words, you did not try to look into the maze trap of Taft-Hartley. You looked down the broad highway of peaceful negotiations.

Mr. GOSSETT. We certainly have, sir.

Senator TAFT. Except as to foremen, I suppose.

Senator HUMPHREY. I conceded in the very beginning of this, Senator Taft, that I was not one of those that considered myself too well informed on the matter of the foremen's association. I am going to read the evidence. I read your original statement, and I am going to be much better informed. I think that is a separate problem, and I want to know more about it.

Mr. GOSSETT. May I interrupt you long enough to say, Mr. Senator, that we are very glad to have your approval. We hope we will always merit it.

Senator HUMPHREY. I hope that you always will too, and I hope that I will merit some of yours.

I am proud of my State, as the distinguished Senator from Florida is constantly reminding us of his pride in the wonderful climate of Florida—

Senator PEPPER. And other virtues.

Senator HUMPHREY. And other virtues. My good colleague from Missouri reminds us of Missouri, even though we do not need to be reminded of Missouri.

We would like to remind you again of a State known as Minnesota. Now, I have here in my possession the advance release, or this is something that was advance a few weeks ago when it came to my office, a Minnesota poll dated Sunday, January 23.

The Minnesota poll was closer on the election than almost any other poll, may I say. They predicted, I think, the plurality of Mr. Truman in Minnesota. They were always very good to me all during the campaign. I was very grateful that the poll showed up quite well, and I cooperated by making their poll come true.

The Minnesota poll says:

Disapproval of Taft-Hartley law rises since pre-election period. During the pre-election campaign, 40 percent of the Minnesotans interviewed in a State-wide sampling said that they approved of the Taft-Hartley law as it stood; 31 percent said they disapproved.

That is, before the campaign. It was quite a campaign issue in our State.

Since the campaign, on the whole do you approve or disapprove of the Taft-Hartley law as it now stands? These are the replies only of people who know that the law is concerned with labor-management relationships.

And, by the way, only 55 percent of the people knew it was about labor-management relationships. That is a pretty good average, I would say.

Thirty-seven percent approved the law, and 39 percent disapproved. There has been quite a shift from 31 percent that disapproved up to 39 percent that disapproved, and the rest of them are people that do not express an opinion.

Senator TAFT. Did that poll also include a separate poll on the various features of the law, Senator?

Senator HUMPHREY. The people of Minnesota, Senator Taft, are of the opinion that a law is a total entity and they have never liked to judge the beauty of the forest by taking a look at one of the twigs. We are so accustomed to the comprehensive study of things that in Minnesota the Taft-Hartley law is the Taft-Hartley law, and we have never been bewitched by this very seductive process of bringing into our economy economic sin by just giving a little bit each time, you know, the little twist each and every time.

What we have done has been to look at the whole law, that is the way I want to look at it, and I think that is the way your plant management has looked at it.

Senator DONNELL. Senator, while we are speaking about Minnesota, you say only 55 percent of the people that you referred to even knew that the Taft-Hartley Act referred to labor-management, and you say that was pretty good?

Senator HUMPHREY. I would say a comparable poll in my beloved sister State of Missouri would have to go very high to get a better figure than 55 percent.

Senator DONNELL. You may be quite right.

Senator HUMPHREY. What I am pointing out is that the law does not affect everybody, as has been pointed out, and I think it is quite amazing that people are that well informed.

Mr. GOSSETT. Mr. Senator, I would like to make one comment apropos of our previous discussion. I think that successful labor relations is very dependent upon responsibility on both sides, the assumption of responsibility both by management and by labor, and I do not think that can be done successfully unless there is responsibility on both sides.

Senator HUMPHREY. You and I surely agree, I will tell you that. I want to ask this matter for the record.

Senator TAFT. That admits the main feature of the Taft-Hartley law. I am satisfied, Senator.

Senator HUMPHREY. No, sir. May I say the main feature of the Taft-Hartley law is the irresponsibility of the general counsel and the responsibility of the courts in the use of the injunction, and pray God that the Ford Motor Co. carries on its present position of trying to work out the doctrine of human understanding rather than the doctrine of legalism.

I would like to ask you about this place where the foremen left the plant, which you referred to in your statement as a breach of contract. Was that place the Cadillac Square rally in May 1947 in protest of the Taft-Hartley Act?

Mr. GOSSETT. It was, Senator.

Senator HUMPHREY. You see what that Taft-Hartley Act does? You lost those good foremen, made sinners out of them right then and there.

Mr. GOSSETT. Senator, I do not agree with that statement.

Senator HUMPHREY. I did not ask you that. You do not need to come up with that one.

Senator DONNELL. What was the date of that?

Senator HUMPHREY. I think it was May 1947.

Senator DONNELL. The Taft-Hartley Act was not passed over the veto of the President until June 23, 1947, and I understood Mr. Gossett to say it went into effect when?

Senator HUMPHREY. August.

Senator DONNELL. August 22 or thereabouts, was it not?

Senator HUMPHREY. Well, see, the workers were alert to the provisions of the act, Senator, and they were out to remonstrate in a very democratic manner.

Senator DONNELL. While it was still in process.

Senator HUMPHREY. While there was still an opportunity.

Mr. GOSSETT. The act had not been enacted but it was in the process. I am sorry that Senator Smith is not here, because with the permission of the chairman I would like to make one remark.

Senator TAFT. I would like to question you on that matter particularly.

In the first place, Mr. Gossett, regarding these contracts and the exception of matters which the union obviously was not responsible for, commercial contracts are full of exemptions of people from liability for things which they are not directly responsible for, are they not?

Mr. GOSSETT. I think they are, sir.

Senator TAFT. I mean all commercial contracts have provisions often against everything except intention, or everything except criminal negligence.

Mr. GOSSETT. Even willful.

Senator TAFT. Yes, so the fact the labor-management contracts have such provisions in them certainly does not in any way reflect on the desirability of having such contracts or having such contracts enforceable against both parties.

Mr. GOSSETT. I do not think so.

Senator TAFT. Mr. Gossett, what level of management do the unions want included within their membership? Did they try to extend this foremen's job down further beyond the regular hire and fire foreman?

Mr. GOSSETT. This is the language of their request, Mr. Senator:

Only the following classifications of employees shall be excluded from this agreement and from membership, active or otherwise, in the association: All non-supervisory employees of the company, building superintendents.

As I have explained, the building superintendent is comparable to the plant manager in most operations and he has as many as 10 or 15 thousand men under him—

and higher supervisory administrative or executive personnel of the company.

Senator TAFT. They were extending it up then in that case?

Mr. GOSSETT. They were, sir.

Senator TAFT. Trying to extend the foremen's union up to include intermediate officers of different kinds?

Mr. GOSSETT. Superintendents.

Senator TAFT. Superintendents and so on?

Mr. GOSSETT. All classes of superintendents except building superintendents who, with us, are very responsible people. Of course, superintendents are very responsible, and so are foremen.

Senator TAFT. You have studied the record of this. Is it not true that for many years under the Wagner Act it was seriously doubtful whether foremen were included, anyway, under the Wagner Act; is that not so?

Mr. GOSSETT. I think it was, sir.

Senator TAFT. You followed the decisions of the Board on that question?

Mr. GOSSETT. I have read many of them, the Maryland Drydock decision and others.

Senator TAFT. And for a long time the National Labor Relations Board held that the provisions of the Wagner Act did not include foremen; is that not true?

Mr. GOSSETT. It did, Mr. Senator.

Senator TAFT. And then later on the Board, by a 2 to 1 decision, reversed that position and held that foremen were covered by the Wagner Act?

Mr. GOSSETT. That is my recollection.

Senator TAFT. And it remained doubtful until the Supreme Court spoke.

Mr. GOSSETT. In the Packard case.

Senator TAFT. And then they spoke by a 5 to 4 decision.

Mr. GOSSETT. Yes.

Senator TAFT. So that obviously this whole question of whether the foremen were included within the original purpose of the Wagner Act was a very doubtful question entirely apart from the Taft-Hartley Act?

Mr. GOSSETT. That is true, sir.

Senator TAFT. And what we did was to try to settle that thing finally in favor of the view formerly adopted by the Board and by the minority of the Supreme Court, four members of the Supreme Court.

Mr. GOSSETT. And as Senator Donnell so well pointed out this morning, the Supreme Court simply passed upon the meaning of the word in the statute, and they left to the Congress the matter of passing upon the policy question of whether or not it was to the best interests of industry to have foremen included.

Senator TAFT. Yes; and also it did not, you could not tell from reading the decision, as I got it, whether if the Supreme Court had the original decision to make on the law without the action of the National Labor Relations Board, they would have decided it that way or not.

Mr. GOSSETT. I had the same difficulty with the case.

Senator TAFT. Do you think that is a fair interpretation, they were not certain what they would have decided if they simply considered the question as an original question?

Mr. GOSSETT. In the quotation this morning, Senator Donnell, they left off a very important sentence relating to the section that you quoted. They quit quoting in their extraction from the case where it got interesting to me, where they talked about the policy question.

Senator TAFT. Mr. Gossett, I would like to have a little further elaboration of your statement regarding the question whether a foremen's union must be necessarily reliant on a rank-and-file union, or not.

Mr. GOSSETT. That is very definitely our experience, Senator. We are firmly of the conclusion, based upon our experience, that there is no such thing as an independent foremen's union. The Foremen's

Association, which is the one heard this morning, was organized at Ford in 1941. At or about that time they went to Mr. Thomas, who was then president of the UAW-CIO, and asked him for his cooperation.

Senator DOXNELL. Mr. R. J. Thomas?

Mr. GOSSETT. Mr. R. J. Thomas. Mr. Thomas considered the question and finally decided that though they would not agree to strike with the foremen or recognize their picket lines, they would, however, agree that if the foremen went on strike they would not take their jobs, and that was very essential to the foremen, because the Foremen's Association would be a powerless, impotent organization without that pledge from the UAW-CIO. The UAW-CIO met that obligation in every one of the 14 strikes that the Foremen's Association had.

Indeed, Mr. Senator, when the final strike came we find the president of the Foremen's Association over appealing to the president of the UAW-CIO, or one of the vice presidents, who took it up with the executive committee, asking them to join the strike, support the strike. They refused to do so, but they did offer to mediate and they wrote us a letter and asked us if we would accept their services as a mediator, and we declined.

The strike failed, so it is perfectly obvious that a foremen's union must of necessity have the support of the rank and file or they cannot be effective.

Senator TAFT. Therefore, a solution which enabled them to set up a union, but a separate union like the provision regarding plant guards in the Taft-Hartley Act, is not a solution of your problem as you see it?

Mr. GOSSETT. It certainly is not. I think it would be most unwise and most unrealistic.

Senator TAFT. Because of the fact that you feel that a foremen's union, with bargaining rights, resulting in your inability to deal with particular foremen must necessarily act with the cooperation of the rank-and-file union or it cannot succeed at all?

Mr. GOSSETT. It has to be beholden to the rank-and-file union.

Senator TAFT. And being beholden to the rank-and-file union, you think that that alone destroys the discipline the foremen have with the rank-and-file members, discipline and persuasive powers?

Mr. GOSSETT. It certainly does, sir. There are many examples in our files. I could cite them all day.

One of them is when we had a strike over in Highland Park in 1945, an unauthorized strike by the UAW-CIO. The foremen stayed in the plants and worked, and the committeemen, the officers of the UAW-CIO, complained to the officers of the Foreman's Association that the foremen were staying in the plants working.

Well, of course, their contracts required them to stay in the plants and work, but the officer of the Foremen's Association went into the plants and advised the foremen to get out of there and they did get out and we had to shut the plant down, all of this in violation of contract.

Senator TAFT. Mr. Gossett, you said there were no strikes before the Foreman's Association, that there were how many while you were dealing with the Foreman's Association?

Mr. GOSSETT. Fourteen, and many threats of strikes.

Senator TAFT. Have there been any strikes since that last strike?

Mr. GOSSETT. There has been none.

Senator TAFT. There has been none since that time?

Mr. GOSSETT. There has been none.

Senator TAFT. What steps have you taken since the passage of this law 2 years ago with respect to foremen to make them an effective part of management, if that is what you are trying to do?

Mr. GOSSETT. That is set forth at page 19 of our statement, Mr. Senator. May I just read that?

Senator TAFT. You did not cover it yesterday, though.

Mr. GOSSETT. I did not, sir.

Since the conclusion of our relationship with the Foremen's Association, we have felt free to go forward with our program of placing more responsibility on and authority in our foremen. This program is, we believe, essential to the continued success of the enterprise. Accordingly, we have made each foreman the manager of his own department.

We use those terms advisedly, Senator. We mean the manager of the department.

He is now engaged exclusively in the performance of management functions. Attached is appendix A containing the sheets from our Supervisors Manual, on which are set forth in detail the responsibilities of each classification of Ford plant supervisors. The number of ranks of supervision have been reduced substantially. The power to discipline their employees, as contrasted with mere recommendations as to discipline, is being returned to them.

The status and the benefits accruing to the foreman's position have been increased commensurately. This has been a natural result of his increased authority and responsibility. For example, his salary status has been improved, and he is eligible for merit increases; he takes part in periodic management meetings; he participates in a management development program; he assists in the development of and is kept informed concerning company policies and programs; and he is given assurance of proper recognition for increased efficiency, production, and good personnel management.

I think all of these fears about foremen being mistreated are quite unrealistic and unreal. As I have said, the War Labor Board panel found that they really had no grievances, but quite aside from that, management regards, generally regards—I am certain this is true in the automobile industry, but I think management generally regards their foremen as an integral part of management. They rely upon them to deal with the workers and to represent the company in dealing with the workers.

Therefore, it is to the interest of management to do the right thing by these foremen, and I think in almost all instances that is a fact.

In our case the foreman's pay is well above, by rigid rule; the lowest-paid foreman is well above the highest-paid rank-and-file man who works for him, and that will always be so, because we want our foremen to be satisfied. We have to rely upon them, and, as a matter of self-interest, personal interest, we must see that that is so.

Senator TAFT. That is all, Mr. Chairman.

Senator DONNELL. Would the Senator permit me to say this, very briefly, particularly in view of the fact that Mr. Gossett referred to one sentence that was omitted?

I take it, Mr. Gossett, you are referring to the sentence at the conclusion of the paragraph quoted by Mr. Brown this morning from the decision in the Packard case, the paragraph beginning:

The company's argument is really addressed to the undesirability of permitting the foremen to organize—
and so forth.

It then says a little later :

There is nothing new in this argument—
and so forth, and then this sentence :

But the effect of the National Labor Relations Act is otherwise for Congress, not for us, to create exceptions or qualifications at odds with its plain terms.

Mr. GOSSETT. That linked up with the last paragraph in the opinion of the majority makes the decision quite significant. It says :

We are simply deciding here as a matter of definition what is meant by the term "employee," but we are not passing upon the policy of permitting foremen to organize. That we shall leave to Congress.

Mr. Senator, that is the reason we are down here. We are down here to give you the benefit of our experience in dealing with foremen.

Senator DONNELL. In view of your reference to the last paragraph in the majority opinion, may I just read one sentence to you and ask you for your comments briefly on the contents of that sentence? It says :

It is also urged upon us most seriously that unionization of foremen is from many points bad industrial policy, that it puts the union foremen in the position of serving two masters, divides his loyalty, and makes generally for bad relations between management and labor.

May I ask you, Mr. Gossett, very briefly, is there any further comment you desire to make on this point that was urged upon the court that "unionization of foremen is, from many points, bad industrial policy"?

Mr. GOSSETT. I do not think any other comment is necessary, Senator. I feel very strongly about it. I have indicated that.

Senator DONNELL. You feel that is true, that it is bad industrial policy, unionization of foremen?

Mr. GOSSETT. There is one phase that fits in exactly. You can theorize on this question for days and give argument on both sides. The phrase I refer to is that a page of history is worth a volume of logic.

Senator DONNELL. Then a further portion of this sentence, which says :

It is urged upon the court that "it puts the union foremen in the position of serving two masters."

Is there anything you desire to add to your previous observations on that point?

Mr. GOSSETT. I think not, sir.

Senator DONNELL. And it further states :

It is also urged upon us that unionization of foremen "divides his loyalty."

Is there anything further you desire to add to that?

Mr. GOSSETT. Well, there are several examples. They are all given in my statement, that I think demonstrate that conclusively. It does divide his loyalty.

We, for instance, asked our foremen once or twice to do things we thought were quite essential to the management of our plants, and the association got together, countermanded those orders, and told our people not to comply with them.

One of them: We heard that our men were smoking in the wash-rooms and standing around the time clock, loafing around in groups

in violation of contract, around the lunch wagons. We asked our foremen to put a stop to that and they absolutely refused to do it.

Senator DONNELL. And the final clause of this sentence—did I interrupt, Mr. Gossett?

Mr. GOSSETT. No, sir.

Senator DONNELL. The final clause of this sentence that I have read from in the majority court opinion is to the effect that—

it is also urged upon us more seriously that unionization of foremen "makes generally for bad relations between management and labor."

Do you regard that to be true, that it does make generally for bad relations between management and labor?

Mr. GOSSETT. I certainly do.

Senator DONNELL. And you have nothing to add to your previous observations on that?

Mr. GOSSETT. No, sir.

Senator DONNELL. That is all; thank you.

Senator PEPPER. Mr. Gossett, as I understand you, you do not think the foremen should have any right to organize and bargain collectively with management for the reasons you have given, not even in a separate union?

Mr. GOSSETT. I do not want to put it that way, Senator. I want to say it this way—this is our position: We think that management should not be required, as a matter of law, to bargain with foremen, a foremen's union.

Senator PEPPER. Well, does it not come down to the fact that the law does not require collective bargaining with the foreman's union, that they never had any legal assurance that they might enjoy the right of collective bargaining with management?

Mr. GOSSETT. They are not deprived of the right to organize, Senator.

Senator PEPPER. Provided management gives it to them, but they have no right to the protection and the right of collective bargaining with management by law, under the Taft-Hartley law.

Mr. GOSSETT. Management would not be compelled to deal with them as a union.

Senator PEPPER. Well, that means then that management would be free legally to deal with them individually or in such groups as management might determine.

Mr. GOSSETT. That is true.

Senator PEPPER. Well, now, then, in your case, how many foremen do you have?

Mr. GOSSETT. About 6,500 in 43 plants in this country.

Senator PEPPER. Six thousand five hundred in 43 plants in this country. Now, what are the assets, referring only, of course, to published statements, of the Ford Motor Co.?

Mr. GOSSETT. In round figures a billion dollars.

Senator PEPPER. Round figures, a billion dollars. Who speaks for those billion dollars in respect to management policy?

Mr. GOSSETT. Traditionally, I think the board of directors speaks. I do not know in what respect you are asking the question. Speaks to whom, Senator?

Senator PEPPER. Well, who is the head of the Ford Motor Co., of management?

Mr. GOSSETT. Henry Ford II.

Senator PEPPER. Henry Ford II. As a generality, is it fair to say that the stock of the Ford Motor Co. is owned by the Ford family?

Mr. GOSSETT. I think it is not true to say that any more.

Senator PEPPER. It is distributed?

Mr. GOSSETT. Eventually, 93 percent of the stock of the Ford Motor Co. will be owned by a public charitable corporation.

Senator PEPPER. Has the date been fixed?

Mr. GOSSETT. No; but according to wills, the will of Mr. Henry Ford and the will of Mr. Edsel Ford, both of whom have died, that will take place in the course of time, when the taxes are paid and the estates are settled.

Senator PEPPER. Well, until that time, at least, and certainly for the known past, some member of the Ford family, up until his death, I suppose Mr. Henry Ford or Mr. Edsel Ford, and now Mr. Henry Ford II, speaks for the ownership of that company and speaks for management.

Mr. GOSSETT. Yes; they speak for management, for certain people. They do not speak for management to the rank and file.

Senator PEPPER. They are the ones that make the decisions, are they not?

Mr. GOSSETT. The board of directors of the Ford Motor Co. is the ultimate authority.

Senator PEPPER. At any time does not Mr. Henry Ford II make the decisions and formulate the policies effectively of the Ford Motor Co.?

Mr. GOSSETT. I think he and his board of directors do; yes, sir.

Senator PEPPER. All right. So I think it is not an unfair generalization, is it, to say that Mr. Henry Ford II speaks for this billion dollars, but in dealing with these foremen you want somebody representing that billion dollars to speak on one side of the table to these individual foremen. You want to have that kind of collective bargaining, the composite power of management speaking through some executive on one side of the table bargaining with these foremen individually about the working conditions that they have, about the wages, about the general conditions surrounding them in that plant. Is that not what your condition comes down to?

Mr. GOSSETT. It is not, sir.

Senator PEPPER. You do not want to have collective bargaining by law. Then anything else they enjoy is simply a bounty from the company, is it not?

Mr. GOSSETT. We want to avoid being required by law to deal with a certified union of the Foremen's Association. We have a procedure that we have set up. We think our foremen are very well satisfied with their positions, with what they are paid, and with what their authority is, but we have a procedure set up which permits any individual foreman or any group of foremen to speak to the superintendent, clear up to the top management, either directly or through representatives.

Senator PEPPER. Well, under the feudal system, there were certain gratuities and a certain course of deference shown to them even by the feudal lords, but they did not have any rights under that system.

We are talking about a country in which men have rights.

Now, you do not propose that the foremen in a Ford plant shall have the right to collective bargaining. That is your position; is it not?

Now, I am not quarreling. You have stated that there are certain policy reasons which no doubt lead you to that conclusion, but the fact is that your position means these men shall have no right of collective bargaining with the Ford Motor Co., and under the Taft-Hartley law no other foremen shall have the right of collective bargaining with management in this country. That is right, is it not?

Mr. GOSSETT. Yes; management shall not be compelled.

Senator PEPPER. Of course. I am speaking about the rights they have. That is what we are talking about.

Mr. GOSSETT. Yes.

Senator PEPPER. You do not think this law should confer upon foremen the rights of collective bargaining which it confers upon the rank and file of the employees?

Mr. GOSSETT. That is right. We think that the evils and the difficulties outweigh the advantages to the foremen.

Senator PEPPER. That is what I was going to say. There is the balance of interest. On one side, you have stated the reasons that actuate your decision. On the other side, I suppose it might be appropriate to call attention to the fact that the effect of that policy, whatever may be its virtues, means that these foremen have got to deal with you individually or in such groups as you recognize as a gracious bounty to them if they ever have any bargaining with you at all.

Mr. GOSSETT. We started, of course, dealing with them, Senator, when they had no rights, long before the Taft-Hartley law.

Senator PEPPER. If you want to bring up the matter of the history of the Ford Motor Co., Mr. Gossett, I have some cases here. Here is one decided in 1940—in the matter of Ford Motor Co. and H. C. McGarity, an individual; in the matter of Ford Motor Co. and United Hatters, Cap, and Millinery Workers International Union, and so on, cases Nos. C-1554 to C-1558, inclusive, decided August 8, 1940.

Now, that was after the Wagner Act, was it not?

Mr. GOSSETT. Yes, sir.

Senator PEPPER. I have not got time to read that long decision.

Senator DONNELL. What is the citation there, Senator?

Senator PEPPER. I beg your pardon. It is volume 26, August 1 to 26, 1940, of the Decisions and Orders of the National Labor Relations Board.

Senator DONNELL. Not holdings of courts?

Senator PEPPER. No; this is decisions of the National Labor Relations Board.

Mr. GOSSETT. I would like to point out also, Senator, while we are getting all the facts in the record, that that was prior to Mr. Henry Ford II's new team. We do not want to criticize the old team, but it was a different team.

Senator PEPPER. Nobody is more pleased than I that the Ford Motor Co. has changed its policy, because there are things in its past that are a disgrace to the company and to America, and I am certainly gratified that young Mr. Ford, with all honor and credit to all that Mr. Henry, Sr., accomplished—and I certainly honor his memory—I am certainly gratified that Mr. Henry Ford has departed from practices that are reported here in these reports, but nevertheless this is the case on the record:

Jurisdiction: Automobile manufacturing industry.
Unfair labor practices.

In general: Acts directed against labor organization before any employees have become members; responsibility of employer for acts employees performed within scope of their employment.

Respondent held directly responsible for the antiunion program executed at its Dallas plant and formulated, directed, approved, and ratified by its principal officials at its main office.

Interference, restraint and coercion; espionage and surveillance; violence.

Distribution of booklet containing inflammatory statements against unions in general held violation of 8 (1).

Formation of employees into inside squads for purpose of aiding in antiunion campaign held violation of 8 (1).

Disruption of public meetings and gatherings called by groups and organizations for purpose of advocating unionization but not admitting to membership respondent's employees held violation of 8 (1).

Exaction of moneys from employees to defray costs of antiunion program held violation of 8 (1).

Discrimination: charges of discrimination as to certain employees, dismissed.

Discharge of an employee because his wife, who was not employed by the respondent, was a member of a labor union not admitting to membership the respondent's employees held violation of 8 (3).

Banishment of an employee from the plant, because of union membership, under threats of physical violence by fellow employees acting on behalf of the respondent held violation of 8 (3).

Remedial orders: respondent ordered to cease and desist from espionage; violence; disrupting public meetings or gatherings; compelling its employees to contribute toward the support of antiunion campaign—respondent ordered to afford its Dallas employees protection against intimidation and violence; to instruct its Dallas employees (1) that they may not make, store, or carry in the plant or remove from the plant, dangerous weapons for the purpose of discouraging union membership and (2) that company officials may not interfere with employees' rights; to disestablish at its Dallas plant inside squads.

Respondent ordered to cease and desist from executing at any of its plants in the country an antiunion campaign found to have been carried out in one plant with the approval and ratification of its principal officials.

Affirmation action, with the exception of posting of notices, required of respondent, restricted to respondent's plant at which the unfair labor practices occurred.

Employees compelled by respondent to contribute financially to antiunion campaign not ordered reimbursed where Board found it administratively impractical to do so.

Filing of a charge of discriminatory discharge 2 years and 5 months after discharge held no bar to recovery of back pay for entire period of discrimination where more time refiling might have subjected employee to physical violence by employer.

Now that is one of the cases. I just want to cite two more. This is the next case, Cases Nos. R-766 and C-807, decided April 29, 1940 in the Matter of Ford Motor Co. and the United Automobile Workers of America, Local No. 325. This is volume 23, April 22, 1940 to May 28, 1940, Decisions and Orders of the National Labor Relations Board.

Automobile industry-procedure: Contention of denial of due process, without merit; full and fair hearing accorded; conduct of trial examiner as complained of, not prejudicial—interference, restraint and coercion; distribution of antiunion pamphlets, contention of right of free speech, without merit; activities in connection with circulation of statements of satisfaction, responsibility for activities of assistant foreman in soliciting signatures; denial of the right of employees to wear union buttons—

and so on.

Well, that is one of the cases. Another one, In the Matter of Ford Motor Co. and International Union, United Automobile Workers of America, Local 425, Case No. C-878 decided May 7, 1940. That is in the same volume of the National Labor Relations Board, the headnote of which is:

Automobile manufacturing industry—interference, restraint, and coercion: Espionage at union meetings; surveillance of union members in the plant; em-

ployment of servicemen to spy on union activities; destruction of a banner announcing a union meeting; distributing literature disparaging labor unions; interrogating, advising, warning, and threatening employees with respect to their union membership and activities. Discrimination: Discharge and refusal to reinstate employees following an annual shutdown; charges of, sustained as to 38 employees; charges of, dismissed as to 31 employees. Reinstatement ordered: Employees discriminatorily discharged and discriminatorily refused reinstatement. Back pay: Awarded to employees discriminated against.

It tells here about how the servicemen and others were engaged to wait outside union meetings and to spy on those who were in attendance and so on.

MR. GOSSETT. What year was that, Mr. Senator?

Senator PEPPER. Oh, I did not give the date of that. That case was decided May 7, 1940, but I take it it was all since the enactment of the Wagner Act and after the Wagner Act had become the law of the land.

MR. GOSSETT. Mr. Senator, may I point out that the following year, 1941, we made our first contract with UAW-CIO and at that time we agreed to pay the highest rates, we agreed to pay rates comparable with those paid to workers in any other industry, and our rates now are higher than our competitors and our rates are particularly higher, down in the lower echelons, with the sweepers, than our competitors.

Of course I would not comment upon those cases without reading and analyzing them, but if we have done things which are contrary to law, we are very sorry. Unfortunately there has been violence and illegality on both sides of this problem and we deprecate it so far as we are concerned in the highest degree.

Senator PEPPER. Well, I do not like to drag old skeletons out of closets, especially when they stink, but at the same time we hear so much today about attacking labor unions and about the tyranny of labor union leaders and about the abuses they commit, that I am afraid the American people have forgotten that management in America did not stop at mud and gross tyranny to intimidate their workers against the exercise of their right of collective bargaining, and the Wagner Act was designed to curb that, and the most bitter struggle was had with a lot of management in this country first to maintain the constitutionality against their ferocious attack led by these kept corporation lawyers of the country, many of whom are in the State legislatures, and finally after the integrity of the act was constitutionally maintained, then the National Labor Relations Board records are replete with their own struggle to enforce the act, and finally to give the worker some decent protection in the enjoyment of his rights, and if the truth were known, even today in America, in spite of all of the protection that the Federal law attempts to throw around him, we are still a long way from the full and fair protection of the rights of workers, I suspect, in a good many cases in the exercise of democratic rights.

Now, the next question I want to ask you, Mr. Gossett, is—

Senator DONNELL. You do not contend that all of this wrongdoing has been confined to management?

Senator PEPPER. I am perfectly willing to let the Senator cite any cases he wants to where the National Labor Relations Board or any court has found employees guilty of unfair labor practices.

Senator DONNELL. The Senator is familiar with the fact that under the Wagner Act, in fact until the passage of the Taft-Hartley Act, there was no provision defining unfair labor practices with respect to employees. Is that not true?

Senator PEPPER. The Senator can resort to the newspaper files and decisions of courts; assault and battery and those offenses, I suppose, were criminal in every State of the Union.

Senator DONNELL. The Senator was saying he would be glad for me to resort to the National Labor Relations Board decisions. Obviously there could be no such decisions with respect to unfair labor practices of labor because there was no statute until the passage of the Taft-Hartley Act that defined any acts to be unfair labor practices on the part of labor.

Senator PEPPER. If the Senator wants to give any comparable acts, I suppose he can find them in the newspaper files and in the decisions of the courts.

Senator DONNELL. To give an illustration, take the Shakespeare illustration a few weeks ago, the Senator is familiar with that; take the California illustration in the moving picture industry, the Yale & Towne Manufacturing Co., when Mr. Carey, who testified before this committee—he later died—Mr. Carey, the president of the Yale & Towne Co. was denied access to his own plant by the labor unions, and if I am not mistaken Mr. Prentiss of the Armstrong Cork Co. in Lancaster, Pa., testified that in order to get into his own plant he had to get a card consenting from the labor union.

Senator PEPPER. Unfair picketing, it is my information, mass picketing, illegal picketing, has been the subject of redress in appropriate form for a long time.

Senator DONNELL. And has existed in large number.

Senator PEPPER. I want to ask one other question, that is, what are the principal automobile manufacturers of the country, Mr. Gossett? How many are there? I do not care for the names, but how many of them?

Mr. GOSSETT. I do not know how many there are, Senator, seven or eight.

Senator PEPPER. What percentage of the total automobile output of the United States annually is produced by the Ford Motor Co?

Mr. GOSSETT. Now about 20 or 21 percent.

Senator PEPPER. And then what is the next largest? You need not name the company. I do not want to make Ford advertise its competitors here, but what percentage of the national output is the next? Is yours the largest company?

Mr. GOSSETT. Ours is second largest.

Senator PEPPER. What is the largest?

Mr. GOSSETT. General Motors.

Senator PEPPER. What percentage do they put out?

Mr. GOSSETT. In excess of 40 percent.

Senator PEPPER. So two corporate entities in America, one of which I think is generally, by the public at least, regarded as pretty much of a family-owned company, and the other one a stock company whose stock is widely distributed, but for whom the executive management speaks with one voice, they produce and they provide 60 percent of all of the automobiles produced in the United States of America every year.

Mr. GOSSETT. That is true.

Senator PEPPER. Now what is the third largest company?

Mr. GOSSETT. Chrysler.

Senator PEPPER. What percentage of the output do they produce about?

Mr. GOSSETT. Eighteen percent.

Senator PEPPER. About 18 percent.

Mr. GOSSETT. I may be off a percentage or so.

Senator PEPPER. Well, that is approximate. Seventy-eight percent of the automobiles produced in the richest country in the world are produced per year by three corporations. Is it unfair to say that those three companies pretty well fix the price of automobiles to the American public?

Mr. GOSSETT. I do not want to answer that question "Yes" or "No." That is like requiring a witness to answer "Yes" or "No" to the question of whether he stopped beating his wife, Senator.

Senator PEPPER. Do they so dominate the automobile market of this country that those three corporations can pretty well fix the price that the American people pay for the automobiles they buy?

Mr. GOSSETT. I think that those three corporations compete very vigorously in the market and that they compete on the basis of price and quality.

Senator PEPPER. Well, that is a considerable amount of economic power, is it not, over the American people's lives and over the prices they shall pay for automobiles? There is not anything in the Taft-Hartley law about that, is there, protecting the public against that?

Mr. GOSSETT. There is something in the antitrust laws that protects the public.

Senator PEPPER. There does not seem to be much.

Mr. GOSSETT. I think it is a very important factor, Senator, a very important factor.

Senator DONNELL. May I ask the Senator, does he propose to introduce evidence to show that these three companies are in a combination in illegal restraint of trade?

Senator PEPPER. The Senator was about to observe that it is remarkable how few times you will find the authors and the militant advocates of the Taft-Hartley law pioneers in the field of antitrust and antimonopoly regulation in the country. That is what I was getting to.

Mr. GOSSETT. The antitrust laws have our complete approval, Senator.

Senator PEPPER. I do not suppose there is anybody much that objects to them now because they are so milked down and lukewarm that they do not hurt anybody much.

Mr. GOSSETT. On the contrary, under the latest decisions of the Supreme Court they are becoming more rigid and effective every day.

Senator PEPPER. Well, if three companies, three corporations produce 78 percent of the automobiles produced in the United States every year, I think that speaks pretty well for itself.

Mr. GOSSETT. That may, Senator, be the result of efficiency and high quality and low prices.

Senator PEPPER. I do not know of any monopoly that does not claim those virtues.

Mr. GOSSETT. They are not a monopoly, sir. They compete vigorously against each other and there is no arrangement among them.

The CHAIRMAN. I have to break in. We have used 15 more minutes than allowed.

Mr. GOSSETT. May I just ask permission to reply to Mr. Brown's statement? He has asked for permission to answer ours, and if it becomes appropriate I would like to file a reply to his statement.

The CHAIRMAN. We will be glad to have your replies.

Mr. GOSSETT. He has made a lot of statements, Mr. Chairman, that are not true. I do not propose to answer them as I have not time, but he made one statement that I want to direct particular attention to.

He said the foremen in Ford were required to sign a "yellow-dog" contract. We want to deny that with all the vehemence at our command categorically and unequivocally.

The CHAIRMAN. We will put your full statement in if you want it in the record.

Mr. GOSSETT. Thank you very much. I appreciate very much the opportunity to appear before this committee.

The CHAIRMAN. Thank you for coming, Mr. Gossett. I am sorry that you had to stay so long. It is entirely my fault.

(Subsequently Mr. Gossett submitted the reply referred to, as follows:)

SUPPLEMENTARY STATEMENT OF WILLIAM T. GOSSETT, VICE PRESIDENT AND GENERAL COUNSEL OF FORD MOTOR CO., BEFORE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

In my principal statement, I made the major points that collective bargaining with supervisory unions tend to destroy effective management; that they place foremen in a position where their duties as foremen and their duties as union members conflict; that supervisory unions are not and cannot be independent of rank-and-file unions, since they ultimately must depend upon the latter for support; that they foreclose the rewarding of merit and discourage initiative, by rigid insistence that promotions and demotions be based solely on seniority and by other means; that they tend to demean the position of foremen and to drive a wedge between foremen and other members of the management team, although the company remains accountable for the actions they take and the results they accomplish; and, in conclusion, that the encouragement of collective bargaining by unionized foremen is not in the public interest.

It is significant that in its reply to my testimony, the Foreman's Association did not refute the basic objections to supervisory unions and did not deny a single one of the instances which we cited in support of those objections. The best it could do was to point out that there were many cases in which such things did not occur. It is also true, of course, that there are many other cases in which such things did occur.

Our citation of examples, as I made clear, was not intended to be exhaustive, but merely illustrative. The important point is that they show what results from the pressures of conflicting interests. Not every foreman always gave way to these pressures, but the pressures always were present.

The fact that foremen's unions are beholden to the unions of the rank and file has been documented in my own and other statements to this committee. The association's statement does not deny this dependence, but rather, in effect, admits it.

It states:

"The charge that independence of collective action is impossible by one group of employees or another in the same plant is dependent only on whether or not the employer has seen fit to treat the interests of one group or another in the same manner or from the same viewpoint."

In other words, the foreman's independence of the employees he supervises could be attained only by treating the supervisor in the same manner and from the same point of view as the supervised. So long as foremen are charged with the duty of supervising the rank and file, this is impossible. The association's position amounts to a rejection of the very essence of foremanship. Without this element, foremen would have no place in industry, and there would be no basis for granting them the prestige and benefits which they enjoy solely as a result of their managerial functions.

In reply to our demonstration of the conflicts in loyalty flowing from collective bargaining by unionized foremen, the association asserts that "our demonstration of obligations to our employer within the scope of the responsibility inherent in our position" is not impaired by "our adherence to our individual interest through membership in a labor union." This bare assertion can hardly stand up in the face either of realities or of the record.

The reference to "the responsibilities inherent in our position" is misleading in the light of the repeated and determined efforts to reject or belittle the managerial responsibilities which are reposed in foremen.

These efforts are not new. As long ago as 1943, the association president was asserting in radio speeches that foremen were merely "the go-between of top management and labor," that "we refuse to take sides in the controversy between management and labor," and that "we have repeatedly stated in these broadcasts that we desire friendly relations with both top management and labor, and that we do not speak for either." (Excerpts from these speeches are reproduced in exhibit A hereto.)

The strange reluctance by the association to concede a more elevated status for the persons whose best interests it purports to represent can be explained only on the basis of its inability to reconcile the opposition of economic strength inherent in collective bargaining with full recognition of the managerial responsibilities of foremen. For no other reason could the association (as it does in its brief) refer to the statement that foremen are a part of management as a "program of attempted indoctrination."

There is every reason to believe, therefore, that the association distinguishes between the responsibilities which it regards as "inherent" in the foreman's position and the responsibility which is reposed in him by the company.

The responsibilities of foremen cannot flow from some outside source. They can come only by delegation from the employer for whom the foremen act.

While the association's statement points out that there are many instances where foremen faithfully performed their supervisory duties (we do not claim otherwise), it does not refute the existence of the conflicting interests, which is the whole point. This conflict, indeed, is so patent that refutation is impossible.

The elements of conflicting interest are especially powerful as between the different levels of management within the foreman group itself. Subordinate foremen work for and are responsible to general foremen, whom they far outnumber. It is the general foreman's responsibility to see that the foremen working for him properly execute their duties, and are removed from their positions if they prove unwilling or incapable of doing so. It is also his responsibility to select those foremen who will be dropped in the event of a reduction in force, and those who will be advanced when opportunity exists. If his own security and well-being were dependent upon a foremen's union, he could not help but give consideration to the possible consequences to the relationships between himself and both his bargaining agent and his brother unionists in dealing with his subordinates.

The association was fully conscious of this, and regarded it as a valuable asset. That became clear in negotiations which took place before the 1947 strike. The association demanded the inclusion in the bargaining unit of general foremen, and of all superintendents except the one in charge of each building at the Rouge plant (a building may contain up to 10,000 employees.) It took the position that these employees should be included whether or not a majority of them so desired, on the ground that their exclusion would result in "conflict" and "friction" between them and their subordinates, and would bring about the loss of "harmonious and cooperative relationships" between them. Such arguments constitute an admission on the part of the association that collective bargaining in a part of management creates conflict and divergence of interest between the collectively bargaining group and the remaining groups.

Our national labor policy is built on the assumption that conflicts of interest and divergence of viewpoint between management and the organized rank and file are natural, and can best be resolved through the compromise and accommodation of these interests between strong unions and strong managements. Unions are expected to have representatives of undivided loyalty who will protect and promote their interests with vigor. It is equally important that management have that kind of representation. It is only when management has such representation that it is in position to solve these problems.

The association's repeated assertion that foremen are not a part of management is fallacious.

The association by implication takes the position that management consists only of setting policy. Even if this were so, the association's position would be unsound. Management consists of running the business, and businesses are run not by setting policies alone. Policies have value only to the extent they are carried out in practice. They are carried out in practice largely at the foremen level. The policies that rank-and-file employees know and believe in are those which are reflected in the actions of their supervisors. This alone would indelibly impress foremen with the characteristics of management.

The fact is, however, that foremen do have a part in establishing policy. Even the setting of broad over-all policies is a group function and not the function of any one individual. Such policies are set on the basis of the accumulated experience and recommendations of the entire management team, including foremen.

In the everyday handling of his job, the foreman must, within the limits of his authority and responsibility, make his own policy. His job could not be made entirely mechanical and routine, even if that were desirable, which it is not. In meeting the infinitely varying problems arising on his job, he must constantly exercise sound discretion and judgment.

The company's contract with the UAW-CIO recognizes that foremen are part of management. It makes the submission of grievances to them in the first instance compulsory. (The umpire has held that a foreman's disposition in the employee's favor, even though wrong, or contrary to company policy, is binding upon the company.) He has also held that a foreman cannot dispose of a grievance by saying "refer to labor relations," or "refer to rate department." He must give his own answer to the grievance.

Foremen exercise managerial authority in other respects.

While foremen do not hire employees in the strict sense (this would be a practical impossibility), they do have the right to reject any employee referred to them by the employment office if they do not think he is satisfactory. They have the right to discharge any employee during his 6 months' probationary period if they do not deem him satisfactory. An employee can receive a merit increase only upon the recommendation of his foreman. He can receive a leave of absence only with the approval of his foreman. (The umpire has ruled that where the foreman has approved the leave of absence, the company must grant it.) The foreman selects employees to be promoted. An employee is disciplined only upon the recommendation of his foreman and in some locations is now disciplined directly by the foreman himself—a policy which we hope to expand.

The vital management role played by foremen was high-lighted in a recent article by Dr. Harry Shulman (who, for many years, has been the umpire under Ford-UAW-CIO contracts) entitled "The Settlement of Labor Disputes." (The Record of the Association of the Bar of the City of New York for January 1949; vol. 4, No. 1.) Dr. Shulman says:

"For like the maintenance of the public health, true labor-dispute settlement depends not so much on the strenuous efforts made in the crisis, though they are obviously important, as it does upon continuous advance care and preparation to ward off crisis by building health and eliminating sources of disease.

"What does this continuous effort require? It requires that supervisors of all ranks in the operations line—*particularly the lower ranks in direct contact with the employees*—be selected with an eye in part to their capacity to adjust shop frictions; and that it be part of their duty to consider in all their actions the effects upon and the reactions of their men. *The function should not be delegated to men without authority* as a disagreeable job of 'soft soaping.' If the assistance of staff specialists—labor relations men—is necessary, they must be men of independence able to advise effectively and not merely to endorse unquestioningly the determinations of line supervision" (p. 16-17). [Emphasis supplied.]

In sum, foremen's unions, to gain their ends, are forced to take a position directly in conflict with the objectives of the national labor policy established by Congress.

The question of recognizing merit and ability is intimately tied to the whole question of effective and responsible management. As the Slichter panel pointed out (see quote in my original statement, p. 13), "the men who hold high positions in management are chosen in part for their skill in selecting and developing subordinates into an effective organization. They should be free within broad and reasonable limits to exercise these functions and to select and develop men for greater responsibilities."

The association's statement again pays lip service to the importance of merit and ability in building management. It does not deny, however, that, as shown in my original statement, in practice it bent every effort towards rigid adherence to

seniority, regardless of merit; and that it sought by contract change to foreclose almost entirely any recognition of merit. It implies, rather, that the company departed from seniority only for the benefit of "apple polishers"—and this indeed is the cry it generally raised against those who earned preference by faithful and able performance of their duties. The charge is ridiculous on its face. No enterprise indulging in such practices could long survive in the heat of competition.

The association implies that the excessive number of grievances it processed in its campaign for unbending seniority enforcement, to which I referred in my statement, was attributable to the company's lack of good faith in handling grievances. This is refuted by the statement of its then national president, Mr. Keys, before this committee in February 1947, when he praised the "efficient and cooperative manner in which the grievances of our members are handled by the Ford Motor Co."

The association's position is sharply revealed by another eloquent fact: There is not a single instance on record of the association's having processed a grievance in behalf of a junior foreman claiming superior merit.

On the question of its opposition to merit increases, the association again points to language in the contract which did not foreclose the possibility. Like the provisions on seniority, however, this was primarily a matter of lip service. It does not deny that it opposed them in practice, and by its attitude and demands, made a system of merit increases to foremen wholly impracticable.

In the end, the association seems to feel it must rely on the position that the "subject matter of negotiation" and "the detailed quarrels between the Ford Motor Co. and the Foremen's Association of America" simply should not be used as a basis for judging the desirability of compelling collective bargaining with foremen's unions. In the words of Justice Holmes, however, "a page of history is worth a volume of logic." We have acquainted the Congress with our experience with that thought in mind.

The examples cited are not isolated, but are wholly illustrative of our experience. But most importantly, they are symptomatic of the factors which, in the nature of the relationships involved, make compulsory recognition of supervisory unions undesirable.

So much for the general issues raised in Mr. Brown's statement. I turn now to instances cited by Mr. Brown which referred directly to Ford Motor Co. and its relationship with the Foreman's Association or with its foremen.

When urged to provide examples of discriminatory treatment of foremen since the present law went into effect, Mr. Brown could cite to the committee only three claimed instances involving Ford Motor Co.

The three instances Mr. Brown cited were the following:

1. That Wilton A. Herring, an employee of our Memphis assembly plant, had been discharged after 24 hours of service as a foreman, as a result of hostility on the part of the plant manager, who continued to resent the fact that a grievance which had been processed on Herring's behalf by the association in 1946 had been denied by the plant manager but overruled on appeal to the home office (Tr. p. 3575-7).

2. That a new policy has been inaugurated of discharging all foremen who reach age 65 (Tr. p. 3595).

3. That all foremen are now required to sign a "yellow dog contract" when they are employed by the company (Tr. p. 3596).

All of these charges are completely unfounded.

Herring's discharge not only was for proper cause—it was a necessity. Because the incident illustrates so well the important place occupied by foremen in the management structure, and some of the reasons why foremen's unions are not in the public interest, we have concluded this statement with a rather full discussion of the case.

The statement concerning "discharge" of 65 year old foremen apparently refers to one of the provisions of the company's group annuity retirement plan. This plan was instituted in 1944, and is applicable to all salaried employees receiving in excess of \$3,000 per year. Eligible employees are required to retire at age 65. During and immediately after the war, the company deferred operation of the compulsory retirement rule because of the manpower shortage. In April 1946 it was announced that effective January 1, 1947, the suspension of the compulsory retirement rule would end. This clearly is not an instance, as claimed by Mr. Brown, of "reprisals and discriminations on the part of the employers under the Taft-Hartley law because of membership in the Foremen's Association of America." The compulsory retirement rule

is applicable to all eligible employees whether foremen or not, and it was announced long before the Taft-Hartley law was passed. In this connection, it should be noted that the Internal Revenue Code denies qualification for tax purposes to retirement plans which give preferential treatment to supervisory employees.

The "yellow-dog contract" charge can only be described accurately as irresponsible. The allusion evidently was to a multipurpose personnel form which was reproduced in the FAA statement. It is not even a distant relative of the yellow-dog contract. The reference seems to be to that portion of the employment statement on the form which reads as follows:

"I understand that my employment is not for any definite term, and may be terminated at any time, without advance notice, by either myself or Ford Motor Co.; that my employment is subject to such rules, regulations, and personnel practices and policies, and changes therein, as Ford Motor Co. may from time to time adopt; and that my employment shall be subject to such lay-offs, and my compensation to such adjustments, as Ford Motor Co. may from time to time determine."

The employment statement is signed by all new salaried employees at the time of hiring. It merely makes explicit, so that the employee will not be misled, the terms which under the common law are implicit to any employment at will.

Mr. Brown's citation of the discharge of Wilton A. Herring, as an instance of discriminatory and unjust action by the company proves upon investigation to be a case of revealing significance.

The case presents a concrete example of some of the things we mean when we say that—

1. Foremen are an integral part of management;
2. To the rank and file, foremen are the Ford Motor Co.;
3. Management policy means nothing except as it may be translated into action at the foremen level; and
4. Foremen's unions are bad not only for management but for the rank and file.

Mr. Brown testified (p. 35, 75-7) that Herring, a foreman at our Memphis assembly plant, had been discharged without a fair hearing on October 27, 1948. He stated that the discharge was due to animosity borne Herring by Mr. B. W. Rose, the plant manager, because the latter's decision on a grievance filed by Herring in 1946 under the FAA contract had been "overruled by Detroit." He also stated that Herring had been a foreman for 24 years.

These charges are false in every respect. The facts are as follows:

Before the war, Herring was the night shift clean-up foreman as he had been since 1935. He had 13 years of foreman service, not 24. When the plant was converted to the manufacture of parts for aircraft engines in 1943, Herring, after training in Detroit, was made a foreman over heat-treating work. After reconversion of the plant to auto assembly in 1945, Herring was returned to his former position. During the war period, another employee had been promoted to foreman of the day clean-up crew, which, unlike the night crew, included plant painters. Herring, unlike the day foreman, had had no experience in such work. Some time after Herring's return to his prewar job, the FAA was recognized at Memphis. In January 1946 the FAA presented Herring's grievance claiming that under the contract he should have been placed on the day-shift job when his war job ended. Even had the contract been applicable at that time, he would not have been entitled to the job, but the grievance was denied, quite properly, on the ground that the contract did not go into effect retroactively. The grievance was denied by the labor relations head, not by Mr. Rose. The disposition was not reversed in Detroit. The then plant manager, Mr. Mabie, in an effort to make Mr. Herring more satisfied with his job, suggested that he be alternated with the day-shift foreman, and this was done for 3 or 4 months. Mr. Herring then was returned to the night-shift job permanently at his own request.

During 1947 Herring was the subject of an increasing number of complaints by his employees and the UAW committee of improper, harsh, and unfair treatment. He also frequently recommended disciplinary action against his employees which seemed hardly to be justified by the facts, and on the basis of conduct which he was claimed to have provoked. There were reports that he sometimes tried to play one employee under his charge against another, and to induce them to testify against other employees. Both his superiors and labor relations officers, recognizing that such charges often are exaggerated, did their best to back him up and at the same time to persuade him to revise his techniques and attitudes in dealing with his employees so that he would lead, rather than drive them. He was regarded as a hard worker, and he knew the mechanical

aspects of his job. At the same time, however, he was given to ready exasperation, he resented suggestions, and he was not cooperative.

In the fall of 1947, two incidents led the plant director of industrial relations to bring Herring to Mr. Rose's office and recommend his discharge. In one incident, Herring had fallen into an argument with one of his Negro employees and told him he would have him looking down the gun barrel of a .38 revolver. In the other, Herring had gotten into a dispute with a union committeeman in the labor relations office and threatened to whip him.

Mr. Rose, despite these serious considerations, felt that he might still prevail upon Herring to change his attitude and conduct toward his men, and declined to discharge him. He warned Herring, however, that any further incidents of mistreatment of his men would result in discharge.

There continued to be rumblings of discontent among his crew through the rest of 1947 and the rest of 1948.

On the evening of Friday, October 22, 1948, Herring and a number of the men working for him were congregated in a cafe across the street from the plant before going to work on the night shift. According to the testimony of a number of those present, Herring stated to these men that if they would stick with him, he would run Paine (one of his employees) out of the department. On Monday, October 24, he did, in fact, recommend disciplinary action against Paine.

The statements made in the cafe were reported to the UAW committee which lodged a vigorous protest in the labor-relations office and produced a number of witnesses to Herring's statement. The incident was reported to the assistant plant manager, Mr. Pearson, along with transcripts of the statements. He reported the matter to Mr. Rose who instructed him to take such action as he believed proper after a thorough investigation and review of the facts.

Mr. Pearson discussed the matter with the industrial-relations director and others, and thoroughly reviewed all of the files and transcripts in the labor-relations office covering both this incident and previous complaints against Herring and disciplinary cases against Herring's men. He then called Mr. Herring into his office on the night of October 27 to discuss the entire situation with him. There was a full discussion of the incident in the cafe and of Mr. Herring's general relationships with his crew. Herring claimed that all of the statements made against him were lies, and asked if Mr. Pearson would check with Mr. Jarnigan, one of his employees, who had been in the cafe at the time of the alleged incident, who would tell the truth about it. It happened that Mr. Jarnigan had already made a statement in the labor-relations office confirming the incident as reported by others. Jarnigan's statements lay on Mr. Pearson's desk at the time. Pearson so informed Herring, who stated "that lying so-and-so told me he wouldn't make a statement like that." In a statement prepared shortly after Mr. Herring's discharge, Mr. Pearson described the remainder of his interview with Herring as follows:

"At this time it was called to Mr. Herring's attention that this was not the only case he was called in my office to discuss, but he was called in to discuss all the cases and relationships with the employees that were working for him.

"I said, 'Herring, I don't know exactly what to do about this.' Mr. Herring then asked me if I would check his entire night shift and find out what they thought about him. I told him I would be glad to, that I would stay here that night and check each man individually. According to statements in labor relations where Mr. Herring had been contacting employees before they went to labor relations, I did not want Mr. Herring in the plant while I was doing this questioning. Therefore, I asked Mr. Herring to go home and come back and see me at 10 o'clock the next morning, and his own words were, 'By God, if I am going to be fired, I want to be fired now.' So after devoting all this time and still not coming up with an answer, I told Mr. Herring that if that was the way he wanted this case settled, that was the way it would be settled. He said, 'Do you mean I am fired?' and I said, 'Yes, I do. You won't give me a chance to check your men or do anything else to see if there is some way of giving you another chance or see if we can work something else out. So in view of this, you are discharged.'"

Copies of the transcript of Jarnigan's statement and Mr. Pearson's statement are attached hereto as exhibits B and C, respectively. Exhibit D is a copy of a statement by R. A. Patterson, asserting Herring had attempted to persuade him to testify that Paine was not a good worker, and had misquoted him to that effect. This statement also had been read by Mr. Pearson before his talk with Herring.

During November 1948, following his discharge, Mr. Herring wrote to Mr. Henry Ford II, and to Mr. Wiesmyer, the company's director of Ford assembly

operations, claiming that he had been unjustly discharged and not been accorded a fair hearing, that he was the victim of prejudice on the part of the plant manager, industrial relations manager, the labor-relations head, and his general foreman.

At Mr. Ford's request, the matter was thoroughly checked into at that time and a detailed report made. In summarizing the matter in a letter to Mr. Wiesmyer, dated November 8, 1948, Mr. Rose wrote as follows:

This has reference to your letter of November 4, 1948, concerning W. A. Herring, former night clean-up foreman, and his letter of complaint which was attached thereto.

Please be advised that several times during the past 2 years, I have found it necessary to call Mr. Herring into my office to reprimand him for the abusive manner with which he consistently dealt with men under his supervision. Each time, I talked at length with him, endeavoring in every way possible to reason with him and make him understand that our treatment of employees must be fair and reasonable. It was my hope that, with a little help from us, Mr. Herring would straighten out and become the type foreman we desired. However, he has proven, without a doubt, that he just doesn't possess the qualities of leadership which are essential in a member of supervision.

The last time I had Mr. Herring into my office, I pointed out to him that we could not contend with further abuse of the men under his supervision and advised him that in the event any further reports were received in my office of mistreatment to his men, it would be necessary to discharge him.

We have found it necessary to discharge Mr. Herring. This action has been taken as a last resort and by no means is it the result of only one complaint.

The writer feels, and I am sure you will agree, that our employees must be treated at all times with fairness, impartiality, and consideration if we are to maintain high morale and enjoy their cooperation, which we must have if we are to reach our objective of a top-quality car at lowest possible cost, and a clean plant in which to work.

On the basis of a full report, Mr. Wiesmyer and Mr. Ford were satisfied that Herring's complaint was unfounded.

Following Mr. Brown's appearance before the committee, management at the Memphis plant was advised of his statements concerning the case and requested comment upon his charges. In response, we have received a number of signed statements. Attached hereto as exhibits E through H are copies of signed statements by the UAW committee at the plant concerning Mr. Herring and his discharge. Exhibits I through M are copies of signed statements by foremen under or with whom Mr. Herring worked. It will be observed that all agree Mr. Herring was unwilling or unable to supervise his employees in a manner consistent with the company's objective of treating its employees as human beings and welding them into an effective, cooperative production team; and was likewise either unwilling or unable to work in a cooperative spirit with his brother foremen and his superiors.

A major company objective in recent years has been to develop effective cooperation between management and the working force.

Mr. Henry Ford II has repeatedly emphasized that efficiency must be obtained by leading our employees instead of driving them.

The Herring incident illustrates graphically that the soundest and best intended personnel policies are fruitless unless they find expression in the day-to-day dealings between the foreman and his men. Policy in the abstract benefits neither them nor the company. Herring knew the mechanical aspects of his job. He was not a loafer. The company leaned over backward for a long period in an effort to back up his authority with his men and still develop in him the qualities of leadership essential for harmonious relations between the company, on the one hand, and the rank and file employees and their union, on the other. In the end, the effort was unsuccessful. The retention of Mr. Herring as a foreman under these circumstances would have convicted the company, in the eyes of the rank and file, of insincerity.

Mr. Herring's length of service and favorable attributes were accorded great weight, but the interests of the enterprise as a whole dictated that these factors could not outweigh his failure to adopt proper practices and effectuate company policies in dealing with his employees, and the consequences that threatened to develop from his failure—the endangering of harmonious relations in the plant.

It clearly would not be in the public interest for the law to require such adjust-

ments, which are of the essence of effective management, to be settled on the basis of economic warfare.

The association's statement, in its concluding remarks, presents the issue before the Congress in this way:

"This question of denying foremen collective-bargaining rights under the Taft-Hartley Act is strictly a labor problem, and the only real issue before the committee is: Will the foreman's interest best be served by granting the same collective-bargaining rights to foremen as are enjoyed by other groups of employees throughout this country, or whether, on the other hand, the foreman should be denied protection under the law of our land in his efforts to improve his working conditions?"

It that were really the issue, the record would not support the conclusion to which the association is forced. The record indicates, instead, that the foreman's interest will best be served, not by collective insistence that he be treated as a laborer, but by wholehearted acceptance of his responsibility as an important member of the management team.

The fundamental issue before the Congress, however, is not whether the legal compulsion of exclusive collective bargaining with unionized foremen will best serve the selfish interests of the foreman, but whether it will serve the best interests of the public.

On the record it is abundantly clear that the encouragement by law of such collective bargaining not only would be against the public interest, but would be inconsistent with the basic objectives sought to be achieved by the legislation which the committee has under consideration.

EXHIBIT A

THE VOICE OF ORGANIZED FOREMEN

(By Robert H. Keys)

March 10, 1943

Station CKLW

* * * We foremen are a vital cog in the production of all war materials. We earn our livelihood on the production lines. We relay the orders of top management, accept the responsibility for departmental output, and act as go-between for top management and labor. We get both sides of the picture day in and day out, and are, therefore, in a position to know what is going on where we work. To get higher production, this hazard of harmful friction between management and labor must be moved off the production road * * *.

* * * While we cannot soft-pedal the situation if we are to be of assistance in the problem of increasing output, yet we refuse to take sides in the controversy between management and labor or to throw mud at either * * *.

THE VOICE OF ORGANIZED FOREMEN

(By Robert H. Keys)

March 17, 1943

Station CKLW

* * * "We don't own or operate these companies and it is our job to carry out the instructions of top management. In so doing we simply reflect the true policy of top management." After all, we foremen are the go-between of top management and labor. If our management is embroiled in harmful friction with labor leaders, then we, the middlemen, get caught in the jaws of this destructive vise. Under such adverse conditions, we are frequently asked to do things that destroy the good will and respect of the men and women working for us. As a result, we are powerless to create and maintain good morale, or control absenteeism or correct numerous difficulties that hamper our efforts to speed up the output of war materials * * *.

THE VOICE OF ORGANIZED FOREMEN

(By Robert H. Keys)

March 24, 1943

Station CKLW

* * * We members of the Foremen's Association of America are employees in the strictest sense of the word, for we are definitely not officers or officials,

and do not formulate company policies where we work. True, we act as the go-between for top management and labor, but only because the employer himself finds it physically impossible to personally lay out and supervise the work of each machine for the day. So he delegates us to carry out his order * * *.

* * * We did not organize the Foremen's Association of America in August of 1941 because we sought unreasonable advantages or a social club. We did organize it, however, because we had learned by long years of bitter experience that acting as individuals, we were powerless to correct some unfair policies of our employers, policies which created a well-founded fear of insecurity and were a blow at our self-respect * * *.

* * * We have repeatedly stated in these broadcasts that we desire friendly relations with both top management and labor, and that we do not speak for either. We are truly an independent association of freemen, banded together in accordance with the laws of our country, and dedicated to the vitally important task of doing everything we can to raise America's production of sorely needed war materials up where it should be * * *.

THE VOICE OF ORGANIZED FOREMEN

(By Robert H. Keys)

April 21, 1943

Station CKLW

* * * We know very little about the practice of medicine, and are not eligible to take sides in such a controversy. But please bear in mind that when we discuss production and management and labor problems we are talking about something with which we are and should be familiar. We are the middleman of industry, the go-between for both top management and labor. We are in a position to know what is going on; to hear all sides of the story; and to properly study causes and effect. We are as close to the problem as anyone else * * *.

* * * We foremen, therefore, are not so particularly concerned about the results of strikes as we are about what causes them. We emphatically state that harmful friction between top management and labor is at the bottom of these strikes in most instances * * *.

THE VOICE OF ORGANIZED FOREMEN

(By Robert H. Keys)

April 28, 1943

Station CKLW

* * * We foremen don't own or operate the companies that employ us and we have no say in determining their policies. We don't sit in on the private conferences of either the executives or labor leaders. Those sessions held behind closed doors where vital courses of action are plotted. But it isn't necessary that we participate in their deliberations in order to learn of any important decisions made, for we are the go-between for both top management and labor right on the production lines. Our job puts us in dead center and we know what is going on just as surely as a referee watching two fighters in a boxing bout * * *.

EXHIBIT B

OCTOBER 22, 1948.

RE FOREMAN W. A. HERRING

Present: Mr. Williamson, labor relations; Mr. Ben Isom, building chairman; Mr. Bilderback, committeeman; Mr. Robert B. Paine, badge No. 2957.

WILLIAMSON. Mr. Jarnigan, Mr. Paine here states that you and Mr. Saidridge and some others heard Mr. Herring make a statement across the street the other night about Mr. Paine, and Mr. Paine stated also that you were willing to come in here and corroborate his statement. Do you wish to do that?

JARNIGAN. It don't make any difference.

WILLIAMSON. That is a man's privilege. If you care to, go ahead and make a statement, telling us approximately when and where the statement was made and what it was.

JARNIGAN. Well, Herring said to the crowd—we were all setting there—he said, “If you will help me, we will run Paine’s damned ass over on the line or somewhere off on the production.”

WILLIAMSON. Is that as near the exact words he used that you know of?

JARNIGAN. Yes.

WILLIAMSON. Did he make that statement more than one time?

JARNIGAN. I wouldn’t say.

WILLIAMSON. You did hear him make that?

JARNIGAN. Yes.

WILLIAMSON. He didn’t mention about what he meant by “if you would stick with him?”

JARNIGAN. I don’t know.

WILLIAMSON. O. K., Mr. Jarnigan, much obliged for coming in.

EXHIBIT C

On the morning of the 26th of October, Mr. Williamson, our labor relations man, called me and asked if I could meet with him and Mr. McKinnon in the labor relations office to discuss Mr. Herring’s case. The union committee was present and they were very critical concerning Mr. Herring, stating that if something was not done that trouble would break out on the night clean-up crew. They stated that they had been patient and the men working under Mr. Herring had been patient for a long time but that the men had stood all they were going to stand. I discussed the matter at that time in detail and later with Mr. Williamson and Mr. McKinnon went into all phases of the situation. I secured the entire labor relations file, amounting to 15 or 20 cases, and spent at least 6 hours in studying all of the data in connection with the various cases in labor relations involving Mr. Herring. Some of these cases were charges brought by Mr. Herring against his men and others were charges brought by his men against Mr. Herring.

After investigating with some of Mr. Herring’s men and also some of our other foremen, Mr. Herring was called into my office the night of October 27 and I had the labor relations cases on my desk. Mr. Herring was asked at that time what could be done to help him get along with his people, as the men working for him and the union were very much upset. He, at that time made the statement that if I would check I would find out that there had been a lot of lies told about him in labor relations. At this time I called Mr. Williamson in and asked Mr. Herring to make the statement again. Mr. Williamson then went over the different cases with him. I told Mr. Herring that it had got to the point where something had to be done and also called his attention to the fact that he had been in Mr. Rose’s office some months before with a recommendation from Mr. McKinnon that he either change or he would recommend very strongly a discharge for him.

At this point Mr. Herring wanted to know if I would check with his men for him and I asked him who he would like me to check with as I had checked with just about everyone that I could check with in the last day or so. He asked me if I would check with Mr. Jarnigan, badge No. 3006, and he would tell me the truth about this Mr. Paine deal or anything else that had happened on his shift. So I turned to our latest labor relations case and told him I had just finished reading it and in that case Mr. Jarnigan made a statement to our labor relations where Mr. Herring did make the statement at Burke’s Cafe that “he would run Mr. Paine out of the Ford plant.” I asked Mr. Herring if that was the man he wanted me to check with and Mr. Herring, to quote his own words, said, “That lying so-and-so told me he wouldn’t make a statement like that.” At this time it was called to Mr. Herring’s attention that this was not the only case he was called in my office to discuss, but he was called in to discuss all the cases and relationship with the employees that were working for him.

I said, “Herring, I don’t know exactly what to do about this.” Mr. Herring then asked me if I would check his entire night shift and find out what they thought about him. I told him I would be glad to, that I would stay here that night and check each man individually. According to statements in labor relations where Mr. Herring had been contacting employees before they went to labor relations, I did not want Mr. Herring in the plant while I was doing this questioning. Therefore, I asked Mr. Herring to go home and come back and see me at 10 o’clock the next morning and his own words were, “By God, if I

am going to be fired, I want to be fired now." So after devoting all this time and still not coming up with an answer, I told Mr. Herring that if that was the way he wanted this case settled, that was the way it would be settled. He said, "Do you mean I am fired?" and I said, "Yes, I do. You won't give me a chance to check your men or do anything else to see if there is some way of giving you another chance or see if we can work something else out. So in view of this, you are discharged."

HAROLD J. PEARSON,
Assistant Plant Manager.

EXHIBIT D

OCTOBER 26, 1948.

RE FOREMAN HERRING

Present: Mr. Williamson, labor relations; Mr. Ben Isom, building chairman; Mr. Bilderback, committeeman; Mr. Gullett, committeeman; Mr. Louis H. Krag, badge No. 412; Mr. Ripley A. Patterson, badge No. 2986.

ISOM. This is Mr. Patterson that Mr. Herring said yesterday told him that Paine wasn't any good.

PATTERSON. When Paine worked with me, he always worked good. He was supposed to help me clean out a tank and spray booth. He pulled him off and told me the reason he pulled him off Paine wasn't doing anything but sitting around. I have worked around him all the time and he has always worked. I know when he worked with me, he worked good. Mr. Herring asked me if I would come in and say that Paine wasn't worth a damn and wouldn't work.

GULLETT. Herring asked you that?

PATTERSON. I couldn't say that he wouldn't work for he always worked. He wanted me to tell that he wouldn't work.

WILLIAMSON. Have you got any other statement you would like to make?

PATTERSON. No, sir; that is all I know about it.

EXHIBIT E

MARCH 1, 1949.

STATEMENT OF MR. BEN ISOM, BADGE No. 373, BUILDING CHAIRMAN

MCKINNON. Mr. Isom, I have asked you fellows to come in this morning to make a statement in regards to our former foreman, Mr. Herring, who was discharged some time ago. Inasmuch as you fellows had quite a bit of dealing with Mr. Herring, I thought it might assist our people in Detroit in arriving at the proper understanding of our handling of the case with Mr. Herring. Mr. Isom, as building chairman, I believe you have known Mr. Herring pretty well for the past several years. How long have you been building chairman?

ISOM. Four years.

MCKINNON. Will you state briefly your experience with Mr. Herring as a foreman?

ISOM. Well, in the first place the union was having plenty of trouble with him prior to the time we went in office to the extent that it was getting to where you couldn't come in the plant without the men complaining, saying it was getting unbearable to work for Mr. Herring. Our efforts when we took office was to try to keep good relations on a fair basis and we investigated the past treatment that the men received from Mr. Herring and found that he was threatening the men that he would have them looking down a barrel of a gun if they didn't do what he said, overlooking the fact that we had industrial relations and labor relations to adjust the grievances back in his department. The continuance of this put us where we had to bring up evidence, which was very easy to do, and we relayed this to the company that threats were made to the men to the extent of looking down a gun barrel which was pretty serious. I could mention a lot of other things like he would ignore the committee if they mentioned anything to him about the way he was treating the men and this would be his typical remark, "I am running this place and am going to run it as long

as I am foreman regardless of what you committeemen do." He also made the statement the day he was discharged by the company that, "He didn't know what we committeemen were trying to do, that he wasn't backing up on anything he had said, that he was going to run his department like he wanted to run it regardless of anybody else." I presume he meant the committee, the company, or anybody else. During the time I have been building chairman, Mr. Herring caused more trouble than any foreman in the plant. He would rush people to labor relations and the evidence they would bring out would plainly show that he was in the wrong on most every case.

BEN ISOM,
Badge No. 373, Building Chairman.

EXHIBIT F

MARCH 1, 1949.

STATEMENT OF MR. LEONARD J. COOPER, BADGE NO. 2680, COMMITTEEMAN

McKINNON. Mr. Cooper, you have been a committeeman for how long?

COOPER. Four years.

McKINNON. You have had dealings with Mr. Herring during that period of time, haven't you?

COOPER. That's right.

McKINNON. You have been a committeeman in his department?

COOPER. Yes.

McKINNON. What's your opinion about Mr. Herring as a foreman?

COOPER. Mac, it is like the other committeemen said. It was something you never could get over to Mr. Herring in the way of treating the men and it was practically every day's business when I was over there in his department the men were coming to see me and complaining if we didn't do something about the way Mr. Herring was treating the men, cursing them and abusing them, they would have to do something, quit if they couldn't get a transfer, that they had taken it as long as they could. We have a number of signed statements from the employees where Mr. Herring has cursed them and threatened them. We brought this to the attention of the company on numerous occasions and pleaded with them to do something about the conduct of Mr. Herring. As an instance of his temperament, about a year ago in labor relations office he lost his temper and threatened to whip one of our committeemen. As a further example of his conduct, just before his discharge we brought to the attention of the company that Mr. Herring made a statement before four of his men in the restaurant across the street that, "If they would stick with him, he would get rid of a man that he referred to as a big son-of-a-bitch." This man was Mr. Paine, who worked on the night clean-up crew under Mr. Herring.

LEONARD J. COOPER,
*No. 2680,
Committeeman.*

EXHIBIT G

MARCH 1, 1949.

STATEMENT OF MR. D. G. BILDERBACK, BADGE NO. 803, COMMITTEEMAN

McKINNON. Mr. Bilderback, how long have you been a committeeman?

BILDERBACK. Six years..

McKINNON. In your dealing with Mr. Herring, what is your opinion?

BILDERBACK. I have been a committeeman for 6 years and I have tried to deal with him as a foreman all the way through but never could do any good at all. He had a way of doing things and wouldn't make any effort to do better. He wanted to run the men around and run them out for no reason at all. It got unbearable to work with the man. We would have trouble with the men coming in the plant to work with him. Every afternoon we would meet the boys at the door and they wouldn't come to work as they couldn't feel sure of themselves to come in and work without the committee coming with them and staying with them

at night. We come with them several nights and found the boys were right. We made every effort to work with the man through Mr. McKinnon and all concerned and it was no way to work with the man. We also had trouble with the men that worked for him trying to get away from him, trying to get transferred to days or anyway to get out from under Mr. Herring.

JACK BILDERBACK,
No. 803,
Committeeman.

EXHIBIT H

MARCH 1, 1949.

STATEMENT OF MR. E. C. GULLETT, BADGE NO. 736, COMMITTEEMAN

McKINNON. Mr. Gullett, you have been a committeeman for about a year, haven't you?

GULLETT. Yes.

McKINNON. You have been with the company how long?

GULLETT. Twenty-three years.

McKINNON. What has been your experience with Mr. Herring?

GULLETT. Well, I worked in the paint department with Mr. Herring a number of years before and since the union come in and I find he was the most overbearing, savage man I ever worked with. He cursed every man, everybody, and everything that happened around him and since I have been a committeeman I have had even the colored boys in the department say that he has driven them to the point where they would curse a white man, something they had never done in their life and very few colored men do do. In talking with a number of men who worked for him they tell me on several occasions he has tried to get them to make a statement to the company against the other workers in the department. All the men in the department were dissatisfied while he was foreman. Since he has left the company and a new foreman has taken over, everybody is happy and nobody has any grievances. It is the same men on the same job but under a different foreman. We haven't had a grievance or even a complaint, nothing but praise for the new foreman since Mr. Herring left.

E. C. GULLETT,
No. 736, Committeeman.

EXHIBIT I

MARCH 1, 1949.

STATEMENT OF MR. A. H. STOVALL, MAINTENANCE HEAD

McKINNON. Mr. Stovall, you are familiar with the discharge of Mr. Herring who was in charge of the night clean-up crew under your supervision. Mr. Herring has criticized local management for his discharge and I would like to have your statement concerning your experience with Mr. Herring. Mr. Stovall, how long have you been with the company?

STOVALL. 33½ years.

McKINNON. How long have you been a foreman?

STOVALL. I have been a foreman since 1924.

McKINNON. You were assistant to Mr. D. W. Ward who had charge of the maintenance department up until 1942.

STOVALL. Yes.

McKINNON. And when this plant went into war work in 1943, you were made head of the maintenance department?

STOVALL. Yes.

McKINNON. Will you give us a statement of your experience with Mr. Herring?

STOVALL. Well, prior to 1943, Mr. Herring was foreman of the night clean-up and my relationship with him was just as a fellow foreman. He was not under my supervision. His general reputation was that he would not cooperate with any of his fellow foremen and Mr. Ward has talked to me many times about Mr. Herring stating that he was unable to get Mr. Herring to carry out his instructions. In fact Mr. Ward told me on one occasion he had Mr. Herring report

directly to the superintendent as he was not able to control him and that he couldn't get him to carry out his instructions. Mr. Herring is a very contentious, quarrelsome sort of an individual and the men in our department have always found it very difficult to work with him. When I was given the position as maintenance head and later when we started our department up after the war, Mr. Herring was in the heat-treat department which came under production, and at the close of the war I protested to Mr. Rose very vigorously about the return of Mr. Herring to our department but Mr. Rose felt that Mr. Herring had a number of years seniority with the company and that he should be returned to his former position. I accepted him reluctantly and made every effort to cooperate with Mr. Herring with the thought in mind that I could probably straighten him out. I found that Mr. Herring would not carry out the instructions I gave him and that he objected very strenuously to any criticism that I had to make of the way he was doing the job. Differences between he and the men working for him were continually coming up and on several occasions men had refused to work for him any longer and would either quit or be transferred to some other department. He was continually bringing men to labor relations on various charges until the labor relations department brought this matter to my attention and after an investigation of these cases and on taking part in the discussion with labor relations, I found that Mr. Herring was bringing cases to labor relations that he was never able to prosecute successfully and with very few exceptions the employee was able to show that Mr. Herring's charges were unfounded. This resulted in a very bad record in labor relations and caused ill feeling with the union committeemen and the men. As a result of this condition I talked the matter over with Mr. McKinnon, the labor relations man, and went into this matter thoroughly and talked with Mr. Herring on several occasions about his conduct, trying to make him realize he had to conduct himself in a different manner. But after realizing that we were accomplishing nothing, Mr. McKinnon took Mr. Herring to Mr. Rose some 2 years ago and recommended to Mr. Rose that he discharge Mr. Herring. Mr. Rose thought that Mr. Herring should be given another chance and asked me to see if I couldn't straighten Mr. Herring out. I made a further effort to work with Mr. Herring without success. At a later date, Mr. Mills who is in charge of our paint department, suggested that I turn Mr. Herring over to him and see if he couldn't prevail upon him to change his attitude, but after 3 or 4 months Mr. Herring did not improve and he continued to create a disturbance in his department up to the time of his discharge.

A. H. STOVALL, *Maintenance.*

EXHIBIT J

MARCH 1, 1949.

Mr. McKINNON. Mr. McDaniel, you are acquainted with Mr. Herring, who was a foreman in your department and was discharged just recently. You have been here for a number of years and I would like you to make a statement as to your opinion of Mr. Herring as a foreman.

Mr. McDANIEL. I came with the Ford Motor Co. in 1929 and I first became acquainted with Mr. Herring in 1930. I had no actual dealings with him until about 1936, when he was transferred to maintenance department on clean-up.

From 1936 to 1948 he was in pretty close contact with me. He was put under my supervision in 1946 or thereabout. Over the period of years that I knew him as a fellow foreman, he never conducted himself in such a manner that would incur the good will of the foremen. After he came under my supervision, I was forced to intervene in his labor relations cases on numerous occasions and after some time I came to the conclusion that the men under Mr. Herring's supervision were not as much at fault as Mr. Herring was. He constantly created situations oughtly in accord with the action taken by the company.

I found in a number of cases where Mr. Herring handled his men in anything but a diplomatic manner. He was never able to reprimand a man properly and usually it ended up with Mr. Herring cursing the man the man cursing Mr. Herring. In my opinion, Mr. Herring was never able to adapt himself to the new company policies.

I am thoroughly familiar with the discharge of Mr. Herring and I am thoroughly in accord with the action taken by the company.

O. E. McDANIEL,
General Foreman, Maintenance Department.

EXHIBIT K

MARCH 1, 1949.

Mr. McKINNON. Mr. Hurley, you are aware of the fact that Mr. Herring, our night clean-up foreman, was discharged recently. Mr. Herring has accused us of unjust discharge and we are trying to bring to the attention of our people in Detroit the type of man Mr. Herring was and what effort was made to help him out before he was finally discharged.

I understand you have been with the company over 20 years and you have been a foreman in the paint department and the maintenance department for the past 12 to 14 years. You were transferred over to the night maintenance department some several months ago, where you had direct contact with Mr. Herring. I would like to have you make a statement as to how Mr. Herring conducted himself on the job or any other information you can give us that would reveal his general attitude toward his job and his men.

Mr. HURLEY. Some years ago, Herring worked for me in the paint department and I used Herring as a leader and I will say this in Herring's favor, he was a hard worker and applied himself to his job, but his inability to get along with other people was always a source of friction in the paint department. He was the type of man that required a great deal of supervision as he would not comply with your full instructions.

When I was transferred to the maintenance department as night maintenance foreman, I was advised by Mr. Stovall and Mr. Pearson to assist Mr. Herring in any way possible and see if I could offer any help in helping him handle his men. I advised with Mr. Herring on several occasions and tried to prevail upon him to handle his men in the proper manner. I tried to point out to Herring that he could gain better results by having the men cooperate with him willingly rather than driving the men. He never seemed to understand that he could gain the cooperation of his employees and while I was associated with him he was in a constant brawl with men working for him. He was very quarrelsome by nature and could not seem to grasp the necessity of handling his men in the proper manner.

After working with Mr. Herring for several months, I informed Mr. Pearson that I had made every effort I could to assist Mr. Herring but that I could gain his cooperation in no respect.

After the discharge of Mr. Herring, Mr. Pearson came to me and asked me my frank opinion as he seemed to be worried about the necessity of having to discharge a man who had been with the company so long. At that time, I informed Mr. Pearson that if the company would give me one-half the chances that he had given Herring, that I would certainly feel well treated.

I have also discussed this matter with other foremen in the plant and I am of the opinion that Mr. Herring merited his discharge.

C. E. HURLEY,
Foreman, Maintenance Department.

EXHIBIT L

MARCH 1, 1949.

Mr. McKINNON. Mr. Lamar, you are familiar with the discharge of Mr. Herring and I believe you have known Mr. Herring for a number of years. I would like to get a statement from you as to the conduct of Mr. Herring and his general characteristics as you have known him over a period of years. How long have you been with the company?

Mr. LAMAR. Seventeen years.

Mr. McKINNON. You have been a foreman how long?

Mr. LAMAR. I have been a foreman about 16½ years.

Mr. McKINNON. You have worked with and known about Mr. Herring for this period of time—17 years?

Mr. LAMAR. Yes, sir.

Mr. McKINNON. Will you make a statement of what you know about Mr. Herring?

Mr. LAMAR. As I knew Mr. Herring, he was a good worker but he discriminated against his employees and was overbearing with fellow foremen. The general opinion among all our foremen is that Herring was a very difficult man to get along with. In the last few years I have had charge of the paint spray

booths and it was Mr. Herring's job to get these booths cleaned. It was always very difficult for me to secure his cooperation. If I asked Mr. Herring to clean a particular booth that we were not getting satisfactory results from, he was the type of man who would just as soon tell you "go to hell" as not.

I have heard the discharge of Mr. Herring discussed among the different foremen and I am positive it is the consensus of all foremen that his discharge was entirely justified.

Since Mr. Herring's discharge, regardless of what night man comes in here at night, I can meet them on the dock or spray booth, they will always say, "Red, how did it go today—what do you want us to do tonight?" That was something I could never get out of Herring. The constant bicing among the night crew has disappeared since Mr. Herring left the company.

EARL B. LAMAR,
General Foreman, Paint Department.

EXHIBIT M

MARCH 1, 1949.

Mr. McKINNON. Mr. Nuckolls, you are acquainted with Mr. Herring, foreman in the maintenance department, who was discharged recently. Mr. Herring has accused us of unjust discharge and I would like a statement from you as to Mr. Herring's record as a workman and a foreman. I understand you have been with the company approximately 25 years. Will you briefly state from the time you worked with Mr. Herring your opinion of him.

Mr. NUCKOLLS. I first worked about 20 years ago with Mr. Herring in the paint department as spray man. We sprayed model T bodies together. My next direct contact with Mr. Herring was when I was made a foreman in the maintenance department in charge of the day clean-up crew and house painters.

My opinion of Mr. Herring was more or less the general opinion of people who knew him—that he was not a person of too good reputation. As a foreman, I worked on the opposite shift with Mr. Herring and I had considerable difficulty with him. He was constantly criticizing me to my superiors for not performing what he thought was my share of the work. This was discussed many times and I finally agreed to alternate shifts with him. Mr. Herring still continued to find fault with me. On a number of occasions Mr. Herring has used very abusive language with me and on a number of occasions the head of our department has asked me to take employees that worked for Herring and use them on my shift and the employees that he so severely criticized proved to be pretty good men after they came over on my shift. It is my personal opinion that Mr. Herring just did not have the qualities of a good foreman, as he continually engaged in abuse of the men under his direction.

JOE NUCKOLLS,
Foreman, Maintenance Department.

The CHAIRMAN. There is a report from the California Metal Trades Association to be inserted in the record. The press can have copies of that if they are interested in it. That was promised by several Senators.

(The report referred to above is as follows:)

CALIFORNIA METAL TRADES ASSOCIATION TESTIMONY TO SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE ON 1949 LABOR LEGISLATION

Mr. Chairman and members of the Senate Committee on Labor and Public Welfare, my name is Robert R. Grunsky. I am managing director of the California Metal Trades Association and the following statement is presented on behalf of 300 employers, members of the California Metal Trades Association, who comprise the principal metal-trades operations in the San Francisco Bay area.

The California Metal Trades Association is not a trade association but was organized in 1890 to represent its members in labor-relations matters. The association has been dealing with organized labor for the past 58 years and at the present time negotiates with 12 unions for its 300 members. Many of our contracts are group or master contracts covering as high as 166 employers under 1 contract. I wish to emphasize that it is not an antiunion association or a group-

ing of employers for the purpose of breaking labor. Its policy is to deal fairly with organized labor to the end that the employers may continue to operate their organizations at a profit while retaining those functions of management which rightfully belong to management.

Our association is made up of small employers. Over 86 percent of the members of the association employ less than 100 employees. The largest single member of the association employs less than 1,000 employees. So it is on behalf of the small employer, the small jobbing shop, and the small manufacturer in the metal-trades field that I submit this testimony.

It is my understanding that your committee is interested in specific cases, not generalities, concerning changes and improvements in labor-management relations due directly to the Taft-Hartley Act. I intend to be specific.

First, may I refer you to section 8 (a)-(4) (D) of the Taft-Hartley Act, the provision pertaining to jurisdictional disputes and work stoppages.

Prior to the passage of the Taft-Hartley Act employers of the California Metal Trades Association were involved in an average of four to five jurisdictional disputes and work stoppages each year. These disputes mainly involved the 30-year old dispute between the millwrights and the machinists for the jurisdiction of installing and erecting machinery.

Since the passage of the Taft-Hartley Act there has not been a single work stoppage involving any employer of the association over the question of work jurisdiction.

This is certainly a record of improved labor-management relations. Although the proposed administration bill does make a jurisdictional strike an unfair labor practice, this bill does not have the teeth of responsibility and the penalty of possible suit for damages that are contained in the Taft-Hartley provisions and it is our fear that it will not, for this reason, be effective in preventing jurisdictional strikes.

Take a case of jurisdictional strike. By the time an unfair labor practice charge is processed through the National Labor Relations Board and a cease-and-desist order is issued by the Board, such order would be in effect an obituary to the employer whose business was long since dead from the effects of the jurisdictional strike.

II

With reference to the non-Communist affidavits, section 9 (b)-(H) of the Taft-Hartley Act, I wish to state that as a direct result of this requirement to file non-Communist affidavits the membership of local 1304, CIO Machinists, an affiliate of the United Steelworkers of America, in an election held in June 1948, completely cleaned out all left-wing officers and business agents of the local and in this election over 30 officers and representatives who were known to be left-wing or Communists were swept out of office. This was merely part of a campaign on the Pacific coast by the United Steelworkers to clean up their locals.

Further, the grand lodge of the International Association of Machinists was encouraged and backed by the provisions of this law to remove from office all business agents and officers who were either left-wing or would not, or could not, take the non-Communist oath in lodge 68, the largest machinist local in the San Francisco Bay area, and in lodge 1176 tool and die makers.

There certainly should be no doubt in the minds of your committee that this action resulted in improved labor-management relations and I know that there is no doubt in the minds of the employers whom I represent.

The administration bill contains no provisions requiring the filing of non-Communist affidavits and I wish to go on record as definitely recommending that this provision be retained in the interest of improved labor-management relations and also in the interest of our national security.

For example, although Harry Bridges has been given a clean bill of health as far as being a Communist is concerned there is no question in San Francisco or on the Pacific coast as to the leanings of his union and many of the union officers. He has stated that if his union could get control of the water front on both sides of this country he could effectively shut down the commerce and trade of the United States.

I ask your committee to consider what effect a Communist-controlled machinist union might have on our war effort in the event of a national emergency.

With further reference to the non-Communist affidavits, I wish to go on record as stating that the employers and staff members of the California Metal Trades Association are willing, and do recommend, that non-Communist affidavits be

filed by employers and their agents as well as by union officers and agents handling labor-relations matters.

III

I now refer you to section 8 (b)-(4) (B) unfair labor practices on the part of the unions and section 9 (c)-(1) (B) the right of an employer to petition the National Labor Relations Board for a representation election where employees or a union have presented him with a claim to be recognized for purposes of collective bargaining.

Prior to the passage of the Taft-Hartley Act some of the unions with which we deal refused to use the processes of the National Labor Relations Board for the purpose of determining questions of representation with small employers. The Machinists Union, Lodge 68, under Hook and Dillon refused to recognize the Board or use any of its processes. An employer in San Francisco, when pressed with a demand for recognition, had a choice to make between accepting a strike and picketing of his plant, or recognizing the union as the collective-bargaining agent without the employees having the right to vote, or to determine for themselves their bargaining rights.

Since the passage of the Taft-Hartley Act containing the provisions referred to we have had no cases in which any union with whom we deal has refused to use the processes of the National Labor Relations Board for the purpose of determining the collective-bargaining rights of the employees.

Can there be any question in the minds of your committee that this change of attitude on the part of the unions, from the use of economic force for the purpose of recognition to the use of the National Labor Relations Board, is not an improvement in labor relations for the small employers or for the employees of these employers?

Here again the proposed administration bill falls down from the stand-point of labor-management relations in that there are no provisions giving the employers the right to petition for an election or making a recognition strike by a union, without using the processes of the National Labor Relations Board, an unfair labor practice.

IV

Section 8 (b) in its entirety and section 2-(5) deal with the union officers' responsibility for their acts and for unfair labor practices of the unions.

As a direct result of these provisions of the Taft-Hartley Act, and the fact that the unions and their officers were given responsibility commensurate with their position in the American industrial life, the employers of our association were able to negotiate fair and firm "no strike, no lock-out" clauses in all agreements.

What was the result of this union responsibility? Prior to the passage of the Taft-Hartley Act and throughout the war period, in the 60 foundries who are members of the association in northern California there was an average of one authorized or unauthorized work stoppage per month, notwithstanding a no-strike clause in the contract.

The record of lodge 68 of the machinists union under business agents Hook and Dillon has been well publicized for the number of work stoppages that occurred during the war period and has even been read into the Congressional Record.

Since the passage of the Taft-Hartley Act there has not been a single work stoppage during the life of a contract in any plant with any union with whom the association deals.

Although section 204 of the administration bill recites that it shall be the duty of employers and employees to make every effort to negotiate no-strike clauses this section is apparently meaningless and unenforceable by reason of the fact that there are no teeth in the measure in that unions and their officers have been relieved of their responsibility for violation of contract. We are now in receipt of demands from several metal-trades unions for complete elimination of all no-strike clauses.

Based on the record there is no doubt that it is in the interest of the public, employers and employees that any legislation continue the responsibility of unions to live up to their contracts.

V

The administration bill proposes the return of the Conciliation Service to the Department of Labor, whereas the Taft-Hartley Act set this Service up as an independent agency.

Prior to the passage of the Taft-Hartley Act and the setting up of the Conciliation Service as an independent agency our employers either refused to deal with the Conciliation Service or looked upon them as business agents of the union and their effectiveness in aiding or settling disputes was about what you would expect with such an attitude on the part of the employers.

Since the Taft-Hartley Act has been in effect there has been a complete change of attitude on the part of the employers I represent. They feel that this is an independent agency and in 1948 the Conciliation Service did effective work in bringing to settlement the three major strikes which occurred between the association and the unions.

The employers look on the Department of Labor as a department set up to aid and assist labor to the same extent that the Department of Commerce is set up to aid and assist business. If the Conciliation Service is returned to the Department of Labor, whether their feelings are based on fact or fiction, there is no doubt in my mind that the conciliation service would again return to the ineffective role it played prior to becoming an independent agency as far as the California Metal Trades Association is concerned.

VI

The unions' claim of damage under the Taft-Hartley Act cannot be substantiated on the basis of the facts with the employer members of the California Metal Trades Association. Here are the facts:

During the past year 22 contracts were negotiated.

Fourteen union authorization elections were held covering these contracts by the National Labor Relations Board. The Board procedure was conducted smoothly in adequate time for negotiations even though there were many serious problems involving multiple employer bargaining units covering from 60 to 88 firms in 1 authorization election.

Three major strikes occurred over purely economic differences of opinion. In not one instance was the Taft-Hartley Act or any of its provisions the cause of an issue or dispute which resulted in strike. All unions resorted to grievance procedure and arbitration rather than economic means in settling questions arising over the interpretation or the application of the agreements.

All this occurred in one of the strongest unions and most highly organized areas in the United States. Does this record indicate damage to the unions? Does it not again indicate improved labor-management relations?

In summary, and in behalf of these small employers, I wish to state:

I. The antijurisdictional dispute legislation resulted in definite improvement in labor-management relations. These provisions should be retained, including the right to sue unions for violation.

II. Non-Communist affidavits resulted in clean-up of troublesome and left-wing unions. These provisions should be retained and expanded to include employers and their agents.

III. The right of employers to petition for representation elections and the requirement that the unions use the National Labor Relations Board processes rather than economic action extended the protection of the National Labor Relations Board's democratic processes to the small employer and his employees. Such provisions should be retained.

IV. The provisions of the act requiring union officers and agents to be responsible for living up to contracts resulted in the complete elimination of authorized or unauthorized work stoppages during the life of our agreements. Such responsibility on the part of the unions is in the interest of all and should be retained.

V. The Conciliation Service was an effective aid in settling disputes for members of our association during the period of time which it has been an independent agency. It was not effective prior to this time. This service should be retained as an independent agency and should not be returned to the Department of Labor.

VI. Our record shows that the union authorization elections have not damaged or weakened the position of the unions, nor have they been prevented from using their economic strength for the purpose of attaining legitimate gains. These provisions should be retained.

In conclusion I wish to point out that labor today is the dominant force, both politically and economically, in the industrial life of the United States. The students of labor relations today realize that we are changing over, if we have not done so already, from a capital economy to a labor economy. From the record and the pressures being applied toward legislation it is apparent that labor is not willing to voluntarily assume the responsibility commensurate with its position in our country today. The Taft-Hartley Act gave them this responsibility by legislation and it appears necessary to continue this responsibility in any revision of labor legislation.

I wish to thank you for the opportunity of presenting this evidence to your committee for consideration.

To the best of my knowledge and belief the above is a true statement.

R. R. GRUNSKY,

Managing Director, California Metal Trades Association, San Francisco, Calif.

Subscribed and sworn to before me this 8th day of February 1949.

[SEAL] VIOLET NEUENBURG

Notary Public, in and for the City and County of San Francisco, Calif.

My commission expires January 3, 1951.

The CHAIRMAN. We stand in recess until 2:30.

(Whereupon, at 12:45 p. m., the committee adjourned, to reconvene at 2:30 p. m., of the same day.)

AFTERNOON SESSION

The CHAIRMAN. The committee will be in order.

Mr. Irving and Mr. Tichy, please. It will be a strange thing for the chairman of a hearing like this to say that two people can't talk at once, but at the same time it is tough on the recorder, and when we find out which of you is going to be the spokesman for the preliminaries, we will proceed.

Mr. IRVING. I will proceed, Mr. Chairman.

The CHAIRMAN. Will you please start then, Mr. Irving, and say what you want about each of you for the record and then proceed. I know you know the rules from now on. You have been around long enough, haven't you?

Mr. IRVING. Yes.

STATEMENT OF C. L. IRVING IN BEHALF OF THE NATIONAL LUMBER MANUFACTURERS ASSOCIATION AND GEORGE J. TICHY IN BEHALF OF THE NATIONAL LUMBER MANUFACTURERS ASSOCIATION AND OTHERS

Mr. IRVING. Mr. Chairman, if I may inform you, we have prepared our 10-minute statement jointly. My own is more general and Mr. Tichy's is more specific, and we believe it will only take about 15 minutes for the two of us to read our separate statements.

My name is C. L. Irving. I am secretary-manager of the Pine Industrial Relations Committee, an employers' industrial relations association. We serve lumbering employers in the western pine lumbering area of central and southern Oregon, and northern California, from a headquarters office in Klamath Falls, Oreg. I am appearing here on behalf of the National Lumber Manufacturers Association, an organization composed of 15 regional lumber manufacturing associations throughout the United States.

Industrial relations has been my business life since 1935, the year the Wagner Act was enacted. Until 1942, I was in charge of personnel

work, labor relations, and public relations for one of the lumber companies. In 1942, I helped the Pine Industrial Relations Committee get started, and I've been its operating head for the past 5 years.

For the record I would like to submit my statement which covers my own personal experiences and my own personal ideas about the entire Labor Management Relations Act of 1947. I would like, also, to submit a short statement from Mr. John G. Curren, who I am informed represents the thinking of the southern pine region of the United States, and to submit an analysis of the proposed Thomas-Lesinski Act by Walter A. Durham, of the Douglas fir area in the Pacific Northwest.

It is my understanding these gentlemen asked to be present and in the early days they were advised they could not be heard.

The CHAIRMAN. The statements will be placed in the record.

(The statements of C. L. Irving, John G. Curren, and Walter A. Durham, Jr., respectively, follow in turn:)

STATEMENT OF C. L. IRVING ON THE LABOR-MANAGEMENT RELATIONS ACT, 1947

SHORT TITLE AND DECLARATION OF POLICY

Experience

The language contained in section 1 (a) and (b) has done much to dispel the fallacious theory that "labor" and "labor organizations (unions)" are synonymous terms. We have noted that "labor" (employees) have been more insistent on their individual rights.

Recognizing the public stake in the problem by writing it into the law has awakened public interest and satisfaction in local communities.

Opinion

The language in the short title and declaration of policy is useful. Like the preamble to a labor agreement, it might be called "hay." "Hay" is, however, a very necessary declaration of intention in both instances.

"Labor" and "union" are not synonymous terms any more than "employers" and "associations" are synonymous terms. They can become synonymous in practice only through the application of the theory that the rank and file, in both instances, determines policy and issues the instruction to the hired men with due regard for their informed opinion. A reverse theory should be discouraged in a democracy, and has been discouraged by this law.

The public, which has been paying and paying for industrial relations warfare, is entitled to the consideration it receives.

TITLE I. AMENDMENT OF NATIONAL LABOR RELATIONS ACT (WAGNER ACT)

SECTION 101. FINDINGS AND POLICIES

Experience

The general knowledge that unions are recognized to have certain obligations in the sphere of collective bargaining has had a stabilizing influence.

In the Labor-Management Relations Act, for the first time, legislators have spelled out the responsibilities of unions and employers to the American public. The public, as represented by Americans not affiliated with either employers or unions, likes this recognition.

Opinion

The further declaration of intention is good.

DEFINITIONS

Experience

Except as specifically commented on below, our experience would indicate the definitions have met with general approval.

Opinion

They are good definitions.

Special comment

The exclusion of supervisors from the definition of the word "employee" did not bring serious problems to our section of the lumbering industry. We have never had a move to organize supervisors into unions, and neither union particularly wanted them in with their rank-and-file union. "Working foremen" have always been a problem, and will always be a problem, so long as unions contend that supervisors shall do no work, and so long as efficiency of operation—with a view to a lower priced product for the public—demands productive work on the part of this type of men.

Opinion

Supervisors should be left excluded from the employee definition. They are a part of management, and should be so recognized. Supervisors cannot be recognized as part of management if they are to be set up in unions in opposition to management. Any unrealistic and unhealthy realignment that divorces supervision from management will mean the buying public will pay higher prices because of higher costs.

"Affecting commerce"

Since our direct experience under the Labor-Management Relations Act has been entirely for employers in logging and lumbering, there has been no question but that they were engaged in the production of goods for interstate commerce.

Opinion

"Commerce" that is interstate in character should be more narrowly defined. Interpretations placed upon the coverage of the Labor-Management Relations Act 1947, have been too broad, with the Federal law assuming too much jurisdiction and leaving too little to State law. The States should be expected to assume responsibility for intrastate business.

Additional comment

Most of the definitions have been built up through a long history of cases before the NLRB under the Wagner Act. It is most helpful to have them in the law, and in one place, where they can readily be found.

NATIONAL LABOR RELATIONS BOARD

Experience

Expansion of the Board from three to five members, and the provision for three member panels, together with a separation of duties by creation of the office of general counsel, has been most successful from the standpoint of getting the work done. The National Labor Relations Board has been able to accomplish a prodigious amount of work—and good work—since the effective date of the Labor-Management Relations Act, 1947.

A new note of equality before this governmental agency has been injected into proceedings before the Board. Employers and employer representatives have more confidence in the Board. There has been no union criticism of the Board set-up, although there has been criticism of the General Counsel by union leaders and union attorneys.

Opinion

A separation of "policing and prosecution" functions from "judicial" functions is necessary to impartial administration.

RIGHTS OF EMPLOYEES

Experience

We have noted more recognition by unions of individual and minority rights.

Opinion

It is the history of civilization that individual dignity, freedom, and initiative in thinking and action builds up and sustains a high "average" in welfare and progress. A reverse process of bulding on an "average" has never been sustained because of the loss of individual rights and incentives. The rights of individuals and minorities should be afforded all possible protection.

UNFAIR LABOR PRACTICES

Experience

Not one unfair labor practice charge has been filed against an employer member of this organization since the enactment of the Labor-Management Relations

Act, 1947, and only one was filed during several years prior to its enactment. No illegal contracts have been signed under the union membership restrictions, nor have there been any strikes to compel the signing of such contracts. The number of union-shop contracts has increased. So have material benefits in wages. Prior to the enactment of the Labor-Management Relations Act, 1947, only 35 percent of our International Woodworkers of America, CIO, contracts contained union membership requirements so restrictive as a union shop. This union now has only one contract among our members that does not contain a union shop provision.

The unions have lost a few union-shop elections. This has tended to keep them on their toes regarding individual service to individual employees. There is more respect for individual integrity.

The objection of employees to compulsory union membership has been partially removed by the clearing up of the situations under which an employee can lose his job. I refer to the fact that membership must be available to the employee on the same terms and conditions as generally applicable to other employees, and that his obligations are met by the willingness to pay initiation fees and dues uniformly required as a condition of acquiring or retaining membership.

In addition, employees have recognized that the right to petition for decertification provides them with a return road if return seems advisable. No longer is compulsory union membership a road of no return. (Union leaders have long argued that union membership is a lifetime obligation. Resignation is not recognized.)

Opinion

In viewing the overwhelming results of UA elections by which unions are authorized to seek union shops, the casual observer fails to realize that the Labor-Management Relations Act, 1947, did its job by cleaning up the reasons for which a union could request discharge. Employees have no objection to paying their freight. Employees do not, in general, approve of closed shops or closed unions, and they realize that union-controlled hiring is most susceptible to discrimination. They appreciate their right, guaranteed by the Labor-Management Relations Act, to petition for the chance to unload an unsatisfactory union, or its compulsory membership requirements. Their objections were to the many internal control abuses inflicted upon them by unions that were ignoring or trampling roughshod over the rights of individuals and minorities.

It is significant to note that the only industries who have suffered real trouble as the result of the prohibition of the closed-shop contract have been the printing industries, the maritime industries, and the building-trades industries. It is even more significant to note that it is in these industries that the public has paid the highest price for one-sided bargaining because of overwhelming strength on the side of the unions. Employers in these industries almost had to cease doing battle for their customers, and have almost uniformly ceased to do so. The American maritime industry was nearly eliminated from peacetime shipping competition by the high costs of ship building, loading, and operation. Prohibitive labor costs in the building-trades industries through wages, practices, and union-employment controls, have been the greatest single factor in putting the price of homes beyond the reach of most Americans. A subsidization program now seems necessary to some people, when in fact subsidization will only cement the errors into permanency. In the printing industries, the public has been denied its rightful share of the benefits derived from the vast amount of technological improvement.

I favor the continued prohibition of the closed shop for the reasons outlined above. The provision for compulsory UA elections might very well be eliminated where there is agreement on compulsory union membership after a 30-day period. The rights of the employees to petition to have the union shop authority of the union denied or removed from the contract should be reserved because it is the best safeguard against uncontrolled union leadership, and rampant majority domination.

Always giving consideration to this right of self-assertion by the employees—who are the ones most affected by a compulsory union membership provision—the contracting parties, that is, employer and union, should be given the right to make such a contract if they so desire.

The employee right to petition for decertification of the union, or withdrawal of the right to include a union-shop provision, removes a cause of misunderstanding between employers and employees, and employers and unions. Under

the Wagner Act, employees dissatisfied with union conditions would approach the employer with their problem. He had only two recourses in handling the problem: (1) Advise them he had no interest in their problem, or (2) refuse to bargain with the union and risk an unfair-labor practice charge. Under the Labor-Management Relations Act, he can refer them to the NLRB, and a cause for friction has been removed.

UNION UNFAIR-LABOR PRACTICES

Experience

No employer in our membership has filed an unfair labor practice charge against a union.

Opinion

Twelve years of experience under the Wagner Act taught all of us that unions can and do commit unfair labor practices, and that such unfair practices should be defined and prohibited. Most of the unfair practices outlined in the act for unions are also unfair when committed by employers. This is equality in the eyes of the law and is as it should be. There can be no legitimate defense of secondary boycotts, hot cargo, jurisdictional strikes in the face of certifications by the National Labor Relations Board, excessive initiation fees and dues, featherbedding, or any other form of coercion or intimidation. Whatever anti-monopoly rules are applied against employers—no more, no less—should be applied against unions.

The public approves the conduct of industrial relations on a businesslike rather than on emotional basis.

Forcing self-employers in one man businesses, or "mom and pop" businesses, to join a union is simply tribute or "taxation without representation." There can be no services rendered to these people on wages, hours, and working conditions through representation by a labor organization.

FREE SPEECH

Experience

Employers in this association have been exercising their free speech rights since the Supreme Court clarified them several years ago despite the fact that the NLRB, under the Wagner Act, tried to deprive them of their constitutional rights. The Labor-Management Relations Act, 1947, provision merely writes the Supreme Court ruling into the law.

We have noted that employees expect and appreciate accurate information and the frank opinions of their employers.

Opinion

Freedom of speech is guaranteed by our Constitution. There can be no quarrel with its written expression in a law laying down the rules for the prevention and handling of economic strife.

OBLIGATIONS OF EMPLOYERS AND THE REPRESENTATIVES OF EMPLOYEES UNDER COLLECTIVE BARGAINING

Experience

There has been no difficulty in this area regarding the terms under which contracts may be terminated or modified.

Opinion

Maybe these rules are not the best ones that can be found, and if better ones can be found we should get them. In the meantime, these rules have certainly been an improvement, and a protection to the public.

REPRESENTATIVES AND ELECTIONS

Experience

For many years, we have insisted on NLRB certification of representation, after a secret ballot election, before extending recognition to a union.

Comment

Requiring a secret ballot election, conducted under governmental auspices, is a proven, democratic, and American process.

Our experiences, or my opinion, are not too pertinent as to the balance of this section. It outlines, more or less, instructions to the National Labor Rela-

tions Board. Consequently, comments below are to specific portions of the section.

INDIVIDUAL EMPLOYEES AND THEIR GRIEVANCES

Experience

We have noted that union representatives now pay more attention to the grievances of individuals and minorities. Most of these grievances are now settled at the immediate supervisor-workman level thus eliminating one of the most irritating aspects of day-to-day collective bargaining.

Opinions

The provisions that collective bargaining agreements shall be complied with in such grievance adjustments, and that the union shall have an opportunity to be represented in discussions, are sufficient guaranties to the unions.

CRAFT UNITS

Experience

Some craft unions affiliated with the American Federation of Labor, notably the operating engineers and the teamsters, have attempted to move into established industrial units. These efforts have been defeated, and have been opposed by the Lumber and Sawmill Workers, AFL, the International Woodworkers of America, CIO, and employers.

Opinion

The National Labor Relations Board has usually done a good job on this question of unit determination. I can think of nothing that would be more disturbing to the economic atmosphere of this country than for every manufacturing employer to have to deal collectively with each of the craft units that could conceivably be set up in his organization. I once handled an NLRB case in California where the Lumber and Sawmill Workers Union, AFL, and the International Woodworkers of America-CIO, sought industrial units among employees of a lumber manufacturing concern. The teamsters sought to represent logging truck drivers in woods operations and carrier operators in lumber plant operations, as well as all employees working in the loading or unloading of such equipment. In the same case, the operating engineers sought a unit composed of logging caterpillar operators, truck road construction crews, and hoisting engineers in the woods operation, together with the power plant employees and the operators of machines used in hoisting lumber in the plant operation. Neither of these two unions claimed any jurisdiction over the balance of the employees actually engaged in handling of logs and lumber. At the very best, the granting of their petitions would have meant three union contracts and three sets of collective bargaining negotiations for an employer with a labor force of 140 people.

To carry this craft business to its ridiculous extreme at this small operation, the machinists might have sought a unit composed of the machine shop and mechanical employees, the electricians for a small electrical crew, the carpenters and joiners for a few millwrights, the various brotherhoods in a small 10- or 15-man railroad operation and track crew, and the culinary alliance in the cookhouse. In addition there could have been a professional employees' unit, a unit for guards, a supervisors' unit, and a unit among clerical workers, and I am sure I've missed a few.

I wish to repeat the comment that, both under the Wagner Act and the Labor-Management Relations Act, 1947, the National Labor Relations Board has, by and large, done a good job on unit determination. The special protection to craft units, if interpreted narrowly, is dangerous, and a constant source of irritation between unions as well as employers and unions.

We have dealt and deal with craft unions, and successfully, in special circumstances usually of a temporary nature. Their former take-it-or-leave-it attitude has been succeeded by an attitude of reasonable argument and negotiation under the Labor-Management Relations Act, 1947.

GUARDS

Experience

Guards and watchmen in the Pine Industrial Relations Committee, Inc., area have been excluded from contract coverage. A better job of plant and property protection has been secured thereby.

When watchmen used to be in a unit with production workers, they often looked to union strike leaders for instructions in strike situations because of their fear of retribution through the union, and with consequent loss in efficiency of protection.

Opinion

Divided loyalty can only be harmful to this type of employee, and to the results of his work.

TWELVE-MONTH PERIODS BETWEEN ELECTIONS

Experience

Prior to the passage of the Labor-Management Relations Act, 1947, some of our member companies have experienced three or four elections within a 3- or 4-month period. Obviously, the union can lose two or three elections and then win another one through the sheer force of repetitive voting. The employees, even though they may not desire a union, get disgusted, and believe that Government is alined with unions against them.

Since the enactment of the new law, we have noted that unions apply for elections only after they have done a thorough selling job in organization. When the union does this job well, they are strong unions because of member understanding and participation. Our employers prefer to deal with that kind of strong union.

Opinion

Unions should be required to sell their product or service just as any other product or service is sold. Employers, and their employees, have a right to expect freedom from organizing pressures for a reasonable period of time after the employees have expressed themselves on the subject in fairly conducted, secret-ballot elections.

An exception might be made when unions fail to exercise the bargaining rights they have won.

FILING OF UNION RECORDS AND FINANCIAL STATEMENTS

Experience

This provision has no effect on collective bargaining between employers and employee representatives.

Opinion

This requirement of the law should be retained. Union members, especially, are appreciative of the information it gets them concerning the financial manipulations of their officers.

NONCOMMUNIST AFFIDAVIT

Experience

There are very few Communists among the members of either union in the Pine Industrial Relations Committee, Inc., area.

Opinion

One of the two unions with which we deal has had this problem to combat in other areas in the West. The requirement for non-Communist affidavits has enabled them to make progress in cleaning up their problem. I know it will be argued by those prejudiced against this requirement that they would have cleaned out the Communists anyhow. It is interesting to note that the job was not done until passage of the Labor-Management Relations Act, 1947. One of this union's booklets to their members, in commenting on the subject of rumors that its union is run by Communists says: "Furthermore the Taft-Hartley Act has certainly cleared that issue up as far as our organization is concerned."

There are suggestions that employer representatives should be required to sign the affidavits on the same terms as union representatives. I have no quarrel with this proposal. The Communist and his ilk, including fellow travelers, must be brought out in the open where they can be smelled.

In my opinion, there is only one valid reason for refusing to sign a non-Communist affidavit in order to secure the benefits of democratic laws. A Communist should refuse to sign the affidavit.

PREVENTION OF UNFAIR LABOR PRACTICES

Special comment

This section of the law is largely technical, and can be better commented on by a legally trained administrator. Generally speaking, if enforcement injunctions are to be used against employers, they should be used against unions.

The decentralization theory, accomplished by conceding jurisdiction to recognized and consistent State agencies, should be retained. Democracy cannot be retained through centralization. Recognition of State jurisdiction can help solve the borderline commerce problem.

The statute of limitations in the filing of unfair labor practices, and the requirement that evidence substantiating the charge shall be submitted within 10 days of the charge, are good rules to keep. In the past, misleading charges were filed for the advertising value they contained in organizing employees, and with no idea of actual processing. The NLRB's records, under the Wagner Act, show unfair-labor-practice charges being brought years after the alleged acts were supposed to have taken place.

The Labor-Management Relations Act, 1947, has eliminated the use of the NLRB, and the unfair-labor-practice charge, for organizational publicity purposes only. This furthers the equalization theory, and prevents a form of blackmail.

Technical commentators on this section should always bear in mind the inalienable right of an American citizen—whether he be an employee, an employee representative, or an employer, to seek and secure justice through the courts.

INVESTIGATORY POWERS

Comment

These are technical provisions.

LIMITATIONS

Experience

We've had no strikes since the new law became effective.

Opinion

The right to strike should be protected so far as it is consistent with public welfare, but strikes should be approved by involved employees in secret-ballot election.

Supervisors should be excluded from the definition of employee. (See comment under "Definitions" above.)

The right of States to consider local conditions, and the desires of its citizens to enact more restrictive provisions regarding compulsory union membership should be recognized and vigorously defended. In a country as vast as is our country, with the varying conditions in various areas, there is every reason for decentralization of control.

Along this line, Supreme Court comment in the decision upholding North Carolina, Nebraska, and Arizona "right to work" laws is necessary reading not only as to the validation of State laws restricting compulsory union membership, but as to whether unions really need this form of security.

EFFECTIVE DATE OF CERTAIN CHANGES

Special comment

I can't help remarking that a revised law will make it necessary to meet time requirements all over again even though these time requirements have been met. I am reminded that a great deal of constructive inquiry and work toward a better solution of difficulties between labor organizations and employers will have been wasted. Learning a new set of rules, all over again, will not be conducive to economic peace in our Nation, and we need that peace if we are to achieve our aim of leadership in securing world peace.

More than anything else, our employers and employees need stability. They like to be able to figure ahead. Every time the laws governing industrial relations procedure are changed, there is the need to consult lawyers, accountants, etc. These changes and consultations do not make for stability.

TITLE II. CONCILIATION OF LABOR DISPUTES IN INDUSTRIES AFFECTING COMMERCE; NATIONAL EMERGENCIES

Experience

Employers have been gradually gaining confidence in the Federal Mediation and Conciliation Service because of its independent agency status. Conciliators in the old days, under the Department of Labor, were viewed by employers in this industry as simply Government-paid representatives of the unions. Commissioners of the Service were generally tolerated, but seldom usefully used. Today, employers are accepting arguments that the Service is impartial.

Opinion

Employers will not have confidence in any mediation or conciliation agency that is under the direction of the Secretary of Labor, or in the Labor Department. They take the enabling act creating the Department of Labor literally, as they well should, and expect it to follow that dictate as labor's representative in the administrative branch of the Federal Government.

NATIONAL LABOR-MANAGEMENT PANEL

Experience

We have had no direct experience with this body.

Opinion

This panel has been of considerable value to the Mediation and Conciliation Service in setting up their activities. It can continue to be useful. The public likes the idea of a bureau seeking the advice of citizens.

NATIONAL EMERGENCIES

Experience

Since we have had no strikes, there has been no opportunity of declaring us a "national emergency." This is a small-business industry. In our association, the average member company employs approximately 150 employees.

Opinion

President Truman has made pretty good use of this provision in the Labor-Management Relations Act, 1947. Perhaps it can be improved upon, since it has little effect on law-defiant unions. If there are ways to secure these improvements, they should be used. Fact-finding recommendations might be helpful before the jury of public opinion.

It is certain that neither unions nor employers have a complete right to go their own way in their desire to accomplish some of their aims, if that be at the expense of the great American public. The Federal Government of the United States will always have a hard time justifying a pro-employer position, or a pro-union position. They should never have any trouble in justifying a pro-American public position.

TITLE III. SUITS BY AND AGAINST LABOR ORGANIZATIONS

Experience

None of the members of this association have been sued by a labor organization. Neither has one of the members filed suit against a labor organization.

Opinion

The right to redress through the courts has been a powerful and stabilizing influence on every matter connected with the history and development of America. There should be the right of redress to the courts, either by a labor organization, employees, or an employer, when damage results from breach of contract or any illegal action. This right to redress through the courts should especially be open to third parties.

This particular provision of the Labor-Management Relations Act, 1947, has had more to do with the acceptance of contractual obligations and responsibility by unions and their agents, as well as their members, than has any other single thing. Employers, too, have been brought alive to the fact of their responsibilities and their obligations. The American public can only benefit from such acceptance of responsibility.

VOLUNTARY, REVOCABLE CHECK-OFF

Experience

Our dues check-off provisions have always been voluntary and revocable. We have had no automatic check-offs.

We have no health and welfare programs in the "John L. Lewis" sense. There are many group insurance and hospital programs that have come into the picture through voluntary, cooperative action on the part of the employers and employees.

Opinion

Fines should be prohibited as withholding items. I see no objection to collecting initiation fees, as well as regular recurring monthly dues through the medium

of a voluntary, revocable, individual check-off, if the contracting parties agree to that procedure.

As to the health and welfare funds through the medium of collective bargaining, I want to issue a warning. The trend of interpreting the phrase "wages, hours, and working conditions" as including everything under the sun is dangerous. It will eventually break down the collective-bargaining process, and make necessary to go to complete governmental regulations. The back of the collective-bargaining process will be broken by simply carrying too much weight. Unless we want collective-bargaining failure, we had better not permit the expansion of the commonly recognized definition of the terms. Actual wage rates, hours of work actually performed, and the job conditions under which work is performed during these hours of work for that rate of pay is about as far as collective bargaining can function and remain as one of our successful democratic processes for the settlement of labor disputes.

BOYCOTTS AND OTHER UNLAWFUL COMBINATIONS

Experience

We have experienced no boycotts or other unlawful combinations within our membership since the passage of the Labor Management Relations Act, 1947.

Opinion

That kind of experience is good for all of us. If the language of the prohibitions needs clarifications, it should be made more definite.

There is no place in the American scheme of things for coercion or intimidation by any means or by any persons or organizations. Secondary boycotts, jurisdictional disputes, hot cargo, etc., offends the public.

RESTRICTIONS ON POLITICAL CONTRIBUTIONS

Special comment

However this thing cuts, it should cut both ways when applied to either corporations or unions.

It is to be hoped no labor "bossed" political machine can develop. Because such a political machine would be national in scope, it would be more dangerous to the common welfare than have been localized political machines.

STRIKES BY GOVERNMENT EMPLOYEES

Special comment

A study of the events in some of the western European countries with whom we have been trying to live—and work for—during the past 2 or 3 years should be sufficient evidence that strikes against the Government should be outlawed.

TITLE IV. CREATION OF JOINT COMMITTEE TO STUDY AND REPORT ON BASIC PROBLEMS AFFECTING FRIENDLY LABOR RELATIONS AND PRODUCTIVITY

Special comment

This joint committee can be a powerful force in avoiding the mistakes of the Wagner Act. The biggest mistake under the Wagner Act was letting it go so long without amendment. The joint committee, properly functioning, can help avoid repetition of that mistake by recommending preventive "minor operations." The Labor-Management Relations Act, 1947, ran into trouble because it had to be a "major operation" in order to cure a deep-seated ailment.

The public likes this businesslike approach to legislation.

TITLE V. DEFINITIONS

Special Comment

See our comment on title I, above, regarding "industry affecting commerce" and the dangers in broad interpretation of this term.

SAVING PROVISION

Experience

Although turn-over rates have decreased, when compared to the preceding four or five war years under the old Wagner Act, they have decreased because of economic and social conditions, not the new law.

Opinion

The right of any employee to quit his employment should be protected. It has not been damaged by the Labor-Management Relations Act, 1947.

SEPARABILITY

Special comment

This seems to be good legislative draftsmanship.

C. L. IRVING,

Secretary-Manager, Pine Industrial Relations Committee, Inc., Klamath Falls, Oreg.

STATEMENT OF JOHN G. CURREN

My name is John G. Curren and I am from New Orleans, La. I represent 18 lumber-manufacturing corporations in Texas, Arkansas, Louisiana, Mississippi, Alabama, and Florida, and I have had many experiences under the old National Labor Relations Act, commonly called the Wagner Act, and the present Labor Management Relations Act of 1947, more commonly called the Taft-Hartley Act. In my opinion, the Labor Management Relations Act has had a very definite balancing effect on labor and management in the various States in the South where I have had occasion to negotiate contracts for management as their spokesman at the bargaining table. It has given management some of the rights which it should have had back in 1935 when the Wagner Act was passed. Having these rights, management has been able to balance the scales in their relationship with organized labor.

I believe that the Wagner Act has had a sufficient trial period of approximately 12 years, and that no one could say that the Labor Management Relations Act has had a fair trial, even by its severest critics, after approximately 1½ years. However, taking both trial periods, the Labor Management Relations Act has eliminated many work stoppages, many unfair labor practices, and the records of the National Labor Relations Board in Washington and the "watchdog" committee of Congress will bear that statement out that the Labor Management Relations Act is at present an excellent act from all angles.

The right of the individual employee has been established by the Labor Management Relations Act, where it was not considered under the Wagner Act as an individual, but collectively. In other words, individuals' rights under the Wagner Act were established through collective bargaining only. Under the Labor Management Relations Act, he has the right, under collective bargaining, and as an individual.

Under the Labor Management Relations Act, freedom of speech is very clearly outlined as to how far management can go and where they must stop, whereas under the Wagner Act, everything was left up to the National Labor Relations Board, and their entire discretion. If the Board was well balanced, as it was at times, clear-cut decisions on freedom of speech were set out by the Board. In fact, a number of decisions of the Board in the last 6 months of its existence under the old Wagner Act, were decisions which would comply 100 percent with the Labor Management Relations Act.

COMMENTS OF THE LUMBERMEN'S INDUSTRIAL RELATIONS COMMITTEE ON THE
MAJOR PROVISIONS OF THE THOMAS-LESINSKI BILL (S. 249 AND H. R. 1395)

TITLE I—AMENDMENT OF NATIONAL LABOR RELATIONS ACT

Section 1 would remove references to union abuses of the public interest and not only glosses over the truth but implies that employers are the only group of citizens who have obstructed commerce.

Section 2 would remove the exemption granted to supervisors and professional persons under the L. M. R. A. and would open the road again to encroachment of management prerogatives. To subject supervisors once more to divided loyalties will not only impede productive efficiency but will destroy good relationships—particularly with foremen of logging camps—built up during the past year.

Section 3 removes the independent office of the general counsel and again would place the Board in the role of prosecutor and judge—a procedure foreign to American ideals of fair play and justice.

Section 7 would remove the protection accorded to citizens to join or not to join a labor organization as they individually see fit.

Section 8 would remove all references to unfair labor practices by unions, and will surely reverse the trend toward union responsibility that we have seen in the lumber industry negotiations during 1948.

Section 9 (a) would remove the clarification of the right of an individual employee to present grievances individually to his employer without intervention of the union.

Section 9 (b) would determine the appropriate bargaining unit only in the light of the full benefit to employee organization and with no regard to employer views or even to practical operating requirements in the industry. Further extension of craft unionism and jurisdictional strife can only result from such a one-sided and unrealistic determination of bargaining units by the Board.

Section 9 (c) would remove the right of employees to challenge the continued existence of a labor organization by appropriate petitions to the Board, and will put the public at the mercy of labor-dynasties which have perpetuated themselves without regard to views of their membership. The employer likewise would be prevented by the proposed bills from seeking a determination of a representation question. This is an especially important question in the lumber industries, where at last one of the two equally powerful AFL and CIO woods unions has declared war on the other until jurisdictional victory is complete. Some employers have a CIO woods union and an AFL mill union, all getting along fairly well under the present law.

Section 9 (e) would eliminate the requirement for a union shop election, which has been considered of dubious value as a mandatory feature of the L. M. R. A. It would be better to retain the election machinery if a certain percentage of the employees desired to avail themselves of an election to assist them either in gaining or in removing a union-shop clause. In the lumber industries, the unions have used elections in the "easy" cases where some form of compulsory membership previously existed prior to the passage of the L. M. R. A.

Section 9 (e) also would drop the provision that in a representation election, employees on strike but not entitled to reinstatement could not vote. During the relative harmony in lumber labor-management relations of the past year, there has been little occasion to test this provision. It would avoid the packing of ballots by professional strikers and should, as the shipping industry of the west coast has learned, prevent some of the wanton violence to life and property which has occasionally accompanied recognition strikes in the past.

Section 9 (f) would eliminate the requirement that financial statements be filed by any union prior to availing itself of Board services. This requirement has done much to assist lumber unions in an honest attempt to show their accomplishments to the unions. It is a sign of maturity and responsibility which many of the union leaders of my acquaintance would like to see retained.

Section 9 (h) would remove the requirement that non-Communist affidavits be filed before a union can use the services of the Board. The international scene as well as the domestic drift toward a collectivist "welfare" government makes imperative the retention of this safeguard, which I believe should be extended to employers. The CIO International Woodworkers, after fighting a successful battle to rid themselves of certain left-wing officers in the Pacific Northwest, prints the statement that "Furthermore, the Taft-Hartley Act has certainly cleared that issue up as far as our organization is concerned."

Section 10 (a) would clip the powers of the Board in preventing unfair labor practices by removing its right to action in the Federal courts, and will permit the Board to take action only in those cases it may be pleased to consider. Court procedure has been successful in eliminating a particularly obnoxious secondary boycott involving a western Washington sawmill which had continued for months prior to the passage of the L. M. R. A.

Section 13 would appear to restore an unlimited right to strike, particularly when coupled with the fact that the new section 8 defines not a single unfair labor practice of unions.

Title II is omitted in the proposed bill, which will make possible the return of the Conciliation Service to the United States Department of Labor. During the past year, the Federal Mediation and Conciliation Service has done much to establish itself as a true independent public agency, and the employees I have met in the agency have appreciated the new air of impartiality which was impossible in a department charged specifically with the duty of furthering the interests of labor.

Title III is also omitted, which would lift suits by and against labor organizations. It is my observation that the new law has made for more dignity and responsibility in the conduct of both employers and unions in their bargaining

relationships, and it would be a distinct loss to the public to tempt one side back to the era of irresponsibility. It is extremely unfortunate that the new bill proposes to remove the restrictions upon contributions by groups, banks, or labor organizations in connection with Federal elections. Our whole system of government is based on the expression of individuals, not of citizens in the mass without regard to the rights of minorities in the group.

Title IV of the present law provides for a joint committee to study "basic problems affecting friendly labor relations and productivity." Loss of this feature in the proposed bill will remove an orderly and proper method for the Congress to continue the study of its own labor law. My friends in legal and college circles have great admiration for the quality of the two reports issued by the present joint committee.

In closing, I most strongly urge that any form of compulsory union membership be limited to the payment or offer of payment of regular monthly dues. The harsh requirement that a citizen must keep membership in any organization "in good standing" is not in keeping with American traditions of individual dignity and freedom. I do not approve of compulsory membership in any association for any purpose, but if we are to have it under the new labor law, let's have it in a form which does not seal the lips of an employee who would stand in fear of labor dictatorship if compulsory membership is not prescribed to mean payment or offer of payment of regular monthly membership dues.

Finally, in my conversations and radio debates with labor union officials and attorneys, they have failed to offer a single constructive suggestion for amending the Labor-Management Relations Act, except that the non-Communist affidavit requirement be extended to employers.

Respectfully submitted.

LUMBERMEN'S INDUSTRIAL RELATIONS COMMITTEE,
WALTER A. DURHAM, Jr.,

Portland, Oreg.

Mr. IRVING. A Federal labor law, to be effective in promoting the national welfare, must contain several essential features. It is no longer sufficient to lay down vague rules and generalizations for the guidance of parties to collective bargaining, or of Government administrative agencies regulating collective bargaining.

Years of operation under a labor law now generally conceded to be insufficient, the Wagner Act, have taught industrial relations men that neither employers nor unions should be the prime beneficiaries of the law. Rather, the law should be aimed toward protection of the consuming public, and employee citizens.

1. The rights of the consuming public should be recognized in any law governing employer-employee relations. The Government is the logical representative of that public. It should intervene in work stoppages affecting the national health and welfare, and our national labor law should outline a procedure for so doing.

2. The rights of individual citizens must be recognized, and vigorously defended. In our western lumbering industries, employers are individualistic, employees are individualistic, and the representatives each of them selects are individualistic. This characteristic of people is developed by the nature of the problems and the work. No effort to cast them on the same mold, by compulsion, even though countenanced by the law, has contributed to their happiness or well-being.

3. There should be equality for employer and employee representatives in the eyes of the law, and before the governmental agencies charged with enforcing the law or assisting the parties.

4. The rights of States to be interested in the problem should be recognized, and that interest should be encouraged. The desires of their citizens to regulate according to the more localized needs should supersede Federal law, and not be wiped out by Federal law, in the absence of proof of need in the national interest.

5. Rules for guidance must be enunciated within the framework of the law, and provision made for enforcement of those rules. The rules, or the enforcement, cannot be successful unless there is fairness and impartiality toward both parties. In this respect, the right of redress through the courts, both in enforcement and for loss-recovery purposes, should be outlined as to procedure, and afforded to the parties in industrial relations, as it is to all citizens. This is especially true as to contractual obligations. Industrial relations, as to employer, employee, or employee representative, should be expected to operate on sound business principles. The time for emotionalism is past, and the emotional approach has been too costly to our country in terms of strikes and loss of productivity and financial return in wages and profits.

6. A labor law should be definite and clear. The Congress should enact a complete law, not one to be developed by administrative action or court interpretation. Codification of rules and findings developed under the Wagner Act, and from the deficiencies of that act, makes this now possible.

7. Finally, allowance should be made for legislative error in the light of experience, and arrangements made to promptly correct them as well as to provide a check on administrative actions to insure conformance with the intent of Congress.

It is my belief that the Labor Management Relations Act, 1947, is such a law as I have described. It should not be repealed. If amendments are found necessary or desirable they should be made in the public interest, not in the interest of any particular segment of our economy.

Mr. TICHY. Mr. Chairman, I would like to conclude the statement on behalf of the National Lumber Manufacturers Association and others.

My name is George J. Tichy. I am the manager of the Timber Products Manufacturers Association located at Spokane, Wash., an industrial-relations association representing timber-products producers in eastern Washington, Idaho, and Montana. I am also a practicing attorney.

I appear here today in behalf of the National Lumber Manufacturers Association. I have also been requested to speak in behalf of Timber Products Manufacturers Association, Spokane, Wash.; Tri-County Loggers Association, Bellingham, Wash.; Plywood and Door Industrial Relations Committee, Tacoma, Wash.; Industrial Conference Board, Tacoma, Wash.; Washington Employers, Inc., Seattle, Wash.; and the Associated Industries of the Inland Empire, Spokane, Wash. I am informed that these various groups asked to testify before your committee but were not granted time. These organizations, exclusive of the National Lumber Manufacturers Association, represent considerably more than a thousand employers employing at least 35,000 employees.

I would like to file for the record not only my own full statement but also statements for the Tri-County Loggers Association and Oregon coast operators of Coos Bay, Oreg. For the sake of brevity, I will touch upon just a few of the high lights from my own statement, as well as the others.

(The statements referred to follow in turn:)

STATEMENT OF GEORGE J. TICHY IN BEHALF OF THE NATIONAL LUMBER MANUFACTURERS ASSOCIATION AND OTHERS IN OPPOSITION TO S. 249 BEFORE THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

My name is George J. Tichy. I am the manager and attorney of the Timber Products Manufacturers Association, whose offices are located at Spokane, Wash., and which is an industrial relations association representing timber-products producers in eastern Washington, Idaho, and Montana.

I appear here in behalf of the National Lumber Manufacturers Association. I am also representing Timber Products Manufacturers Association, Spokane, Wash.; Tri-County Loggers Association, Bellingham, Wash.; Plywood and Door Industrial Relations Committee, Tacoma, Wash.; Industrial Conference Board, Tacoma, Wash.; Washington Employers, Inc., Seattle, Wash.; and the Associated Industries of the Inland Empire, Spokane, Wash. I am informed that these various groups asked to testify before your committee but were not granted time. These organizations, exclusive of the National Lumber Manufacturers Association, represent considerably more than a thousand employers employing at least 25,000 employees.

As an introduction to this subject, let us first make the following observations:

First: Every statute has its origin in the needs of that group which the law affects.

Secondly: No statute, however well intentioned, will meet with the positive approval of everyone. All law, just from its very nature, will meet with the disapproval of some. Why? Law is our civilized method of governing the relations between peoples, groups, and the other components of society. Therefore, those who are controlled are going to be offended. In addition, it should be noted that any law is just so many words and generally covers a variation of possibilities. The language in itself will frequently be crude or awkward and will not meet with the satisfaction of those who must live with the law.

In analyzing the Labor-Management Relations Act of 1947, sometimes referred to as the Taft-Hartley Act, as any other statute, those observations are important.

In passing, as a spokesman for management in my everyday occupation, it would seem that I should be opposed to the Labor-Management Relations Act of 1947 just as much as many of the labor-union leaders, because that law controls management equally with unions and union leaders. Let me make it clear that as any other law, this law is not perfect. However, in the field of labor relations as in any other field, the paramount interest must be that of the public and not that of any group. I firmly believe that a careful impartial analysis of that law will reveal that Congress basically intended to equalize the responsibilities of unions and employers, first in the interest of the public and secondly in the interest of the individual employee.

In the original passage of the National Labor Relations Act, more commonly referred to as the Wagner Act, Congress found (sec. 1, par. 3) that "Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees."

The result was that Congress placed certain sanctions on management. In essence these controls were:

(a) Employees had the right to organize and to bargain collectively through their selected representatives.

(b) It was made an unfair labor practice for an employer: (1) To interfere with, restrain, or coerce employees in the exercise of that right; (2) to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it; (3) to discriminate in any such manner as to encourage or discourage membership in a labor union; (4) to discriminate against anyone filing charges against the employer; and (5) to refuse to bargain collectively with the representatives of the employees.

(c) The union selected by a majority in an appropriate working unit were to be exclusive representatives of all of the employees in that unit.

(d) A board, known as the National Labor Relations Board, was established to investigate, try, and decide complaints under this act. This Board was also empowered to prevent any person from engaging in an unfair labor practice.

(e) Procedures were established in order that the law could function.

Essentially that is the Wagner Act. Note that unions and union leaders were not controlled. All controls were on employers. In addition, observe that at the time of the passage of the Wagner Act the following social, political, and economic factors prevailed:

(1) There were no huge labor monopolies as we know them today. Therefore, there was no foreseeable need for their control.

(2) The threat of communism to our political and economic structure was at a low ebb.

(3) We did not have such crippling strikes as thwarted the normal functions of large cities and even whole sections of the country.

(4) There were no labor barons capable of the direction of the Nation's economy.

(5) There was not the highly organized and integrated union structure that resulted in the Political Action Committee and the League for Political Action, with influence far beyond their numerical strength.

For the 12 years that followed the passage of that act we find that those things were to come about, and suddenly, by 1946 we were brought face to face with the fact that a group had risen within our Nation even more powerful than the J. P. Morgans and John D. Rockefellers of the late 1800's and early 1900's.

Under the Wagner Act labor unions gained about 10,000,000 members.

Just as through the years we have come to accept corporations, associations, and other business as a part of our society, we have also come to accept labor unions as a part of our society. There is nothing inherently bad in either; however, either may form the vehicle for the ruthless to prey upon members of its own group and, most important, the public.

In 1946 we saw a total of 4,600,000 employees out of work by reason of strikes crippling our Nation and its economy. There was a loss of 116,000,000 man-days of labor in a total of 4,985 work stoppages. We saw unnecessary jurisdictional strikes and secondary boycotts resulting in hoards of employees called out by labor barons to support strikes issues that did not affect those employees. We saw the severe effect that John L. Lewis and the United Mine Workers had on the Nation's economy with his control of the coal industry. We have seen the control of any number of other labor leaders and unions over entire cities such as the recent complete tie-ups in New York City; the Oakland, Calif., area in 1946, and elsewhere. Human memory cannot be so frail as to ignore these unpleasant facts which have happened only yesterday.

In what manner did the Labor-Management Relations Act seek to correct these social, political, and economic inequities?

First, Congress retained in the Labor-Management Relations Act of 1947, as to the need for protection of employees, their finding contained in the Wagner Act, which I have already quoted, and further stated:

"Experience has further demonstrated that certain practices by some labor organizations, their officers, and members, have the intent or the necessary effect of burdening or obstructing commerce by preventing the free flow of goods in such commerce through strikes and other forms of industrial unrest or through concerted activities which impair the interest of the public in the free flow of such commerce. The elimination of such practices is a necessary condition to the assurance of the rights herein guaranteed."

Second, the essentials of the Wagner Act, that is, the controls on employers, were retained in the Labor-Management Relations Act.

Third, the Labor-Management Relations Act sought to regulate unions and union leaders, as well as industry and industry leaders, by providing that both employers and employees should not commit the following unfair labor practices:

(1) To restrain or coerce employees in their rights to organize or refrain from organization; (2) to restrain or coerce an employer in the selection of his collective bargaining representatives; (3) to cause or attempt to cause an employer to discriminate against an employee who had been denied membership or has had membership terminated by the union for reasons other than failure to pay periodic dues and initiation fees required as a condition of acquiring or retaining membership; (4) to refuse to bargain collectively with an employer; (5) to engage in concerted action where the purpose is: (a) To force or require an employer or a self-employed person to join a union or an employer organization;

(b) to force any person to cease dealing in the products of any other producer, processor or manufacturer or to cease doing business with another; (c) to force an employer other than the one being struck to recognize or bargain with a union not previously certified as the collective-bargaining agent of the employees by the NLRB; (d) to force or require an employer to recognize or bargain with another union where one has already been certified by the NLRB as the bargaining agent of the employees; (e) to force or require any employer to assign particular work to employees in a particular union rather than to employees of another union; (f) to require an excessive or discriminatory initiation fee of new members in the union after the union has a "union shop" type of agreement; (g) to cause an employer to pay for services which are not performed or not to be performed, that is, featherbedding..

These unfair labor practices which unions and union leaders are directed not to commit under possible penalties do no more than to curtail abuses which have hurt the public and its own members.

The Labor-Management Relations Act permits either unions or employers to express any view, argument or opinion so long as such expression contains no threat of reprisal or force or promise of benefit. This is the "free speech provision" to which employers and unions alike are entitled. It seems ridiculous that such a provision should be necessary in view of our own Bill of Rights; however, National Labor Relations Board decisions under the Wagner Act necessitated a clear enunciation of these rights.

The Labor-Management Relations Act gives to employees the right to organize or to refrain from engaging in such activities.

The Labor-Management Relations Act defines collective bargaining as the mutual obligation of employer and union "to meet at reasonable times and confer in good faith" with respect to wages, hours, and working conditions. It requires that either party to a collective-bargaining agreement must give a 60-day written notice to the other of any desire to terminate or modify an agreement. Thirty days after giving such a notice, the moving party must also advise the Federal and State mediation agencies of the status of the matter. The working agreement must remain in force for those 60 days and economic action is forbidden. Thus a minimum period of 60 days is assured in which to resolve the issues that may arise from bargaining. Under the Wagner Act, only the employer was required to bargain in good faith and could and was subject to almost every unreasonable abuse by unions without any legal sanctions upon unions for this action. The requirements established are reasonable, in the public interest, and do not unduly inconvenience either the employer or the union. An unfair union should not be permitted to operate without limitations; a sincere union should not want to.

The Labor-Management Relations Act also provides that only one representation election shall be held within a 12-month period. Thus security and stability are assured to the collective-bargaining relationship in its initial stages.

Specific controls on unions and union leadership were established. For one thing, each officer is required to sign an affidavit that "he is not a member of the Communist Party or affiliated with such party, and that he does not believe in and is not a member of or support any organization that believes in or teaches the overthrow of the United States Government by force or by any illegal or unconstitutional methods." (Labor-Management Relations Act, sec. 9 (h).)

This provision has received much criticism by union leaders. However, the vast majority of them have signed these affidavits. What harm has been done those who have signed those affidavits? The answer is no harm has come to them and they have been a credit to their country, their union, and to themselves. What harm has come to those who have not signed those affidavits? They and their union are deprived of their rights under the law. This sanction is necessary to bring clearly to the attention of the membership of that union the failure of their officers to file such an affidavit. Some have criticized this requirement as an insult to the citizenship and integrity of union leadership. In facing the current problem of totalitarianism against democracy, it would appear that each would be pleased for pride in his country to stand up and be counted.

We recognize communism acknowledges that its success is bred in strife and dissatisfaction and we know that they have found a fertile field in unionism. Unions form two facets for their degma. First, unionism is an attempt by working peoples to improve their status. The dissatisfaction giving rise to the desire for unionization is a fertile field for Communist propaganda. Second, to control the working force is to control our economy, our Nation, and our citizens. Let us assume without accusing for the purpose of illustrating our point, that the

longshore unions are dominated by Communist leadership or their sympathizers. We know from past experience that those unions are capable of very effectively shutting our Pacific ports from all shipping. A transit union can stall our largest city to inaction within a few short hours. There are many other examples.

We know that Communists have infiltrated unions and we know that many unions, although giving lip service in bylaws forbidding membership by Communists, nevertheless have been unable to voluntarily rid themselves of them. Here the members have been given an assist in their problem by this law, yet their leadership clamors for repeal of this provision as un-American. Let us look to what one large union in the Pacific Northwest has said in response to the rumors that their union was run by Communists.

"Furthermore, the Taft-Hartley Act has certainly cleared that issue up as far as our organization is concerned. All of the international officers, many of the district officers, and a great majority of our local union officers have signed noncommunist affidavits. The law is quite strict, and any officer certainly would not take a chance on perjuring himself in an affidavit turned over to the Government. However, there might be Communists from time to time slip into our organization because it is the aim of the Communist Party to work through labor organization where they can get control."

Another large international union has been quoted as stating that they favor retention of this affidavit requirement and believe in its expansion to include representatives of employers. In this opinion I concur, and I shall feel no insult, but only pride, to be able to sign such an affidavit when the occasion arises. I am sure that all other representatives of employers in the lumber manufacturing industry will also be willing to sign such an affidavit. Those who give lip service to their patriotism and simultaneously desire repeal of this feature of the law are blundering into the net of the Communist and make a very effective front for the Communist cause. Frankly, I cannot see why there is so much furor over this issue. Hundreds of union, employer, and public representatives on the War Labor Board and its various committees and commissions signed an equivalent affidavit, and no objection was ever raised to my knowledge.

To answer those who say the Labor-Management Relations Act, 1947, requires unions to accept Communists as members, we note that the act does not forbid a union to make its own rules relative to the acquisition and retention of membership in the union.

Another provision of the Labor-Management Relations Act, 1947, that has received severe criticism is the power of the Board to obtain temporary injunctions. This should be studied carefully, as you will find:

First: The Board must first issue a complaint that someone is engaging in an unfair labor practice. This is only done after a charge has been filed and a thorough investigation conducted by the Board. This is time consuming and not conducive to hasty or ill-advised action.

Second: Such an injunction may be obtained against an employer as well as a union.

Third: The injunction cannot be granted until the party against whom it is sought receives notice of the proposal to seek the injunction; and

Finally: This provision is intended only for emergency used by the NLRB. It should be observed that in the first year of this law that in unfair labor practice cases, under section 10 (j), injunctions were sought by the Board in only four instances. Twice against employers, namely General Motors Corp. in the case of a group-insurance plan, and Boeing Airplane Co. in compelling that company to bargain with a union; and twice against unions, namely the Mineworkers Union and the Typographical Union. In every case the basis was in effect the refusal of either the union or the company to bargain collectively with the other in contravention of the law.

Under the Labor-Management Relations Act, labor leaders are no longer permitted to withhold from their membership at least an annual audit of the funds of the organization if that union is to have the protection of the law. The act requires that each union "furnish to its members annually financial reports" setting forth receipts and disbursements, including the purposes for which disbursements have been made. As employers, we have no concern with this but it seems to me that employees who are members of a union have a right to this protection against racketeering, and I think the Government has an obligation to furnish such protection.

Employees are free under the Labor-Management Relations Act to seek an impartial, federally conducted, secret-ballot election to get rid of a union if

they so desire. This is a right that they did not have under the Wagner Act. Statistics show that in over half of such elections, the employees have eliminated the unions claiming to represent them. Without this statutory protection, those some employees would probably still be saddled with an unsatisfactory union, one which in reality did not represent their interests.

The right has been given to the employees to determine whether or not they wish to make membership in a union a condition of employment. You will read much, particularly in union publications, of the overwhelming number of elections in which the union has been successful and by large margins. Even so, does it excuse such a requirement in those few plants where the employees have voted overwhelmingly in opposition to such a requirement? Furthermore, nothing is known of the wishes of those who are members of unions in which their leadership refuses to sign anti-Communist affidavits. If given the opportunity, how would they vote? Furthermore, it is left to the discretion of the union whether it will request an election, and I think you will agree that such elections are generally not requested when the outcome is in doubt. Finally, it should be noted that the largest percentage of the elections that have taken place thus far have been by unions which have had union security clauses for years, and therefore it was anticipated that in such cases the unions would succeed. Would you give up your right to vote as a citizen of these United States simply because one political party has been successful in the last seven out of eight national elections?

Under the Wagner Act, the National Labor Relations Board, in effect, acted as investigator, prosecutor, and judge in any matter before it. History has long ago taught us that such a situation is not conducive to justice. The new law separated these functions so that those who shall judge the matter before the Board may not also be the prosecutors.

The Federal Mediation and Conciliation Service was separated from the Department of Labor and established as an independent agency. The Department of Labor, as the spokesman for labor, can hardly be expected to render fair and impartial efforts to unions and management alike. Title 5, section 611, of the United States Code provides specifically that: "The purpose of the Department of Labor shall be to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment." Only as an independent agency, not responsible to the Labor Department, can the Conciliation Service be impartial.

The rules of evidence to be used in proceedings before the Board were changed from those permitting uncontrolled hearsay evidence to those rules applicable to the district courts of the United States, adopted by the United States Supreme Court. These rules of evidence are based on years and centuries of experience by mankind in seeking to obtain an efficient judicial administration of the rights of peoples.

The Labor-Management Relations Act also provides a specific procedure to be pursued in the event of a national emergency created by a labor dispute. This procedure does not void the right to strike, but simply provides for certain steps to protect the public interest before that right may be exercised. The right to put this procedure in motion is reserved to the President. He has used it seven times, and only once after the procedure was used in its fullest extent has a strike been called, and that was the recent longshore strike. As a matter of fact, the Labor-Management Relations Act specifically preserves the right to strike in the following language: "Sec. 13. Nothing in this Act, except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike, or to affect the limitations or qualifications on that right." It further provides in section 502: "Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service without his consent. * * *"

The Labor-Management Relations Act makes both unions and employers equally responsible under their collective-bargaining agreements and permits either to obtain redress from the other for violations of those agreements in Federal courts. This has not brought any flood of litigation upon the courts, but has made the parties to those agreements more cautious and responsible. The American people have been the beneficiaries.

Concerning the restriction placed by the Labor-Management Relations Act on unions, forbidding their making contributions or expenditures in connection with certain elections, let us note that the same prohibition applies to corporations.

However, you hear little of this. It is our firm belief that a union should not be permitted to divert the regular monthly union dues of a union member to support a political party or candidate to whom he may be personally opposed; further, a union member should not be compelled to make special contributions for such purposes. It should be remembered that some union members are not voluntary members.

The Labor-Management Relations Act forbids strikes by Government employees. Recent strikes in the nations of Europe pointedly demonstrate the necessity and wisdom of such a provision. Although responsible democratically organized and operated labor unions have their place in our society, that place does not include the very lifeblood of the country which provides and protects their existence.

Secretary of Labor Tobin, in appearing before this committee, stated that the right of the individual worker has been abridged. It is well for us to consider a few of the advantages that the individual employee has secured through the Labor-Management Relations Act of 1947:

1. When a majority of the individual members of a union feel that the union is not properly managing their affairs or representing them to their greatest benefit, they may, by following a prescribed procedure, dispense with the services of that union.

2. If a union-shop-type agreement exists in an operation, the union is forbidden to charge unreasonable and discriminatory initiation fees.

3. An individual is not required to join a union before accepting employment.

4. Employees have an opportunity to vote by a federally conducted, secret-ballot election to determine whether or not they are to be required to belong to a union as a condition of employment.

5. The employees may eliminate a "union shop" by secret ballot without fear of reprisal.

6. An individual's union dues cannot be used for the purpose of supporting or defeating political candidates contrary to his personal preference.

7. An individual employee who may be a member of a union by compulsion is free to take his grievances up directly with his employer.

8. Individual employees not only have the right to organize but the right to refrain from organization.

9. Individual employees should no longer be deprived of the opportunity to work by reason of jurisdictional disputes or certain secondary boycotts.

Now let us see how much harm the Labor-Management Relations Act has done to unions. Labor Department statistics show that the normal growth in union membership nationally has not been retarded. Almost a million new members have been recruited by unions during the tenure of this act. Also, let us note that this law did not deter a third round of wage increases nationally. Furthermore, unions can strike and have struck as in the past.

What good has come to the public by reason of this law? After the terrible strike statistics which occurred in 1946 prior to the passage of the Labor-Management Relations Act, in 1948 under this act there were 3,300 strikes or 33 percent less than in 1946; 1,950,000 workers were involved, or 55 percent less than in 1946; and the number of man-days of idleness resulting from strikes in 1948 was 70 percent less than in 1946. There were only 34,000,000 man-days of idleness in 1948 as compared to 116,000,000 man-days of idleness resulting from strikes in 1946. No small amount of this reduction in labor strife is attributable to the Labor-Management Relations Act. Above all, both labor unions and employers are made responsible for their conduct.

Where is this so-called slave labor that was to be the lot of working people under this law? Look about you and you find none. Frankly, it would appear the only people who have to fear this labor law are ruthless labor leaders, Communists and fellow travelers. The workingman has greater protection today than he has ever had. He is not only protected from the ruthless employer, but also from the ruthless in the labor movement. Finally, the public has secured its greatest protection from unnecessary, untimely, and ill-bred labor turmoil.

Rather than going backward in labor relations by repealing the Labor-Management Relations Act, it would appear that there are some abuses which the present law does not cure, which this committee should seriously consider if it is going to legislate on this subject. Since the act specifically provides for an orderly method of determining whether or not a union properly represents a majority of the employees in an appropriate collective-bargaining unit, organizational strikes should be forbidden. For instance, neither under the Wagner Act nor the Labor-Management Relations Act is a union, defeated in a representative

election, prevent from striking in order to obtain recognition by the employer or to compel the employees of that employer to accept the union as its bargaining agent, although in a free and unfettered election those same employees might vote against that union.

In essence, the Labor-Management Relations Act has brought stability, responsibility, care, and caution to the collective-bargaining table by unions and employers alike, not "confusion," as stated by the Secretary of Labor, Mr. Tobin. This, I testify to, not as a theoretical conclusion or from sitting a distance of 3,000 miles from the bargaining table, but from actual day-to-day experience at the bargaining table.

(George J. Tichy, 603 Hyde Building, Spokane, Wash., testifying on behalf of: National Lumber Manufacturers Association, Timber Products Manufacturers Association, Tri-County Loggers Association, Plywood and Door Industrial Relations Committee, Industrial Conference Board, Associated Industries of the Inland Empire, Washington Employers, Inc.)

BELLINGHAM, WASH.

GEORGE J. TICHY,

Timber Products Manufacturers, Spokane, Wash.:

You may inform Senate and House Labor Committees that this group of 50 logging industry employers in northwestern Washington are profoundly disturbed over proposed emasculation of Taft-Hartley Act. Most notable results to date in this area has been the stabilizing influence on both employers and employees with a corresponding increase in operating efficiency and employee productivity. With approximately 3,000 employees involved, the year 1948 was completely free from work stoppages with exception of one small operation where 1 day was lost. In preceding years some type of wild cat strike or job action was occurring every few days. The restraining influence of the law has compelled the union leadership to abandon previous disruptive tactics and policies and return to fundamental collective bargaining principles. Reports from the field clearly indicate that if the truth were known the preponderant majority of rank and file union members in our section of the industry are privately pleased with the end result of 2 years under Taft-Hartley. We sincerely hope that the Senate and House Committees will avoid hasty and ill considered action in repealing this law.

R. I. STUDEBAKER,

Secretary-Manager, Tri-County Loggers Association.

STATEMENT OF CHARLES S. HOFFMAN, OREGON COAST OPERATORS, COOS BAY, OREG.

I will briefly summarize some of our experiences which illustrate effects of the Labor-Management Relations Act of 1947 upon industrial relations within the lumber industry of southwestern Oregon.

In section 2 (3) the definition of "employee", specifically exempting "any individual having the status of an independent contractor," ended what had been a continuing dispute between the IWA-CIO and logging operators in this area. Prior to passage of the act the representative of IWA local 7-140 had repeatedly asserted that all contractors and their employees automatically come under the terms of the working agreement covering employees of the company which had granted a contract for logging operations. These claims were made by the union at various times for various contractors carrying on logging activities for E. K. Wood Lumber Co., Gardiner Lumber Co., and Cape Arago Lumber Co. We agreed with the union on any case where the contractor was not independent or where the "contractor" consisted of piece workers such as a cutting crew. In certain cases, independent contractors were forced to accede to the union's claims and recognize the union in order to avoid strikes which had been threatened. The LMRA has given support to the principle that an independent contractor is an employer in his own right and that any union agreement can only be negotiated between him and his own employees.

The exclusion in the same section, paragraph (3) of "any individual employed as a supervisor" has helped the employer keep its management representatives out from under union control. Before passage of the act both the AFL and the CIO, but particularly the CIO, tried to force working supervisors into the union. Likewise we have experienced cases at Gardiner Lumber Co., and at

Cape Arago Lumber Co. where former union employees were promoted to supervisory positions in the logging departments and were refused withdrawal cards by IAW Local 7-140. Although the provision of the act has not eliminated union pressure on this point it has reduced this pressure and strengthened the position of the operators and also the position of the supervisory employee himself who knows that he cannot represent both management and the union.

The specific definition of "supervisor" in paragraph (11) of section 2 has been a major help to management and to supervisory employees involved by reducing the endless argument and dispute as to what constitutes a supervisor. The number of grievances arising under this point has been considerably decreased since passage of the act.

The provision of section 8, paragraph (a) (3) providing for union shop elections has been helpful mainly in restricting undemocratic powers of union officials who have not qualified under the act. This particularly applies to the Reedsport area of IWA Local 7-140 where the union is not qualified and where the check-off provision coupled with heavy fines or the threat of heavy fines maintained a pseudo-dictatorship over the employees. With the union shop outlawed by noncompliance with the act, the employees have less fear of being blackballed from the industry by action of the union. For example, the local has threatened a fine of \$100 for any member who works on Saturday at straight time, even though the contract expressly provides overtime only if it is the employee's sixth day worked.

In this area outside of the jurisdiction of IWA 7-140, both AFL and IWA locals have complied with the act. The employers feel that U. A. election with such locals is probably wasted effort and only a halfway measure. They would either eliminate the provision for the election or restrict union shop and maintenance of membership along with the closed shop.

Section 8 (b) describing unfair labor practices for labor organizations has done more than any other factory to increase union responsibility as shown by closer observation of contractual provisions and a reluctance to yell "strike" every time they see something they want changed. The result has been more serious negotiation in place of numerous quickie strikes and threats of strikes.

We would like to see paragraph 8 (b) (6) expanded or clarified to include a restraint upon union demands claiming pay for unworked make-ready time which is quite prevalent under IWA Local 7-116 and 7-140. The unfair principle involved in feather-bedding applies equally to the situation just mentioned.

Section 9 providing for representation elections has reduced the number of strikes and threats of strikes over representation where only one union was involved. Prior to passage of the act many operators faced with a strike threat capitulated by recognizing the union making the claim. In a specific instance since passage of the act, IWA 7-140 made such claims upon a new operation established by the Reedsport Logging Co., and threatened to strike unless immediate recognition was granted. The employer offered to determine the issue by an NLRB election and so informed his employees. The union is not in compliance with the act and could not request an election. The employees showed no signs of dissatisfaction with working conditions and continued working without a strike and its resulting economic loss.

Contrast the case discussed in the preceding paragraph with our experience in July 1946 involving a dispute between IWA Local 7-394 and the Powers Mill Co. at Powers, Oreg. The union presented the company with a proposed contract and was told to sign it or there would be a strike. The company questioned whether the union actually represented a majority of its employees. The company was given only 3 or 4 days time in which to sign the agreement proposed by the union. The company refused to sign the agreement and the mill was struck. Either shortly before or shortly after the strike, the President of IWA District 7 offered a card check but could show only 6 member cards out of a crew of 20. Because of the exceedingly pronoun nature of the proposed working agreement the company requested assistance from the association and a counter-proposal was drawn and submitted to a committee representing the union. The company was not in a financial position to maintain a refusal to recognize the union, so negotiations were conducted while the mill was being struck. The union was recognized as the bargaining agent and a contract was agreed upon, after which work was resumed. The strike lasted approximately 2 to 3 weeks. This type of situation can be avoided under the LMRA but will most certainly exist again if we return to the pronoun principles of the Wagner Act under which an employer could not request an election to determine if the union had majority representation.

In this area, the non-Communist affidavit requirement has largely accounted for dismissal by the IWA of one local business agent, one district secretary, and one district president. These men refused to sign the affidavit and they no longer hold office. The booklet titled "Meet the Woodworkers," recently published by the IWA-CIO has this to say on page 13 about Communists in CIO unions: " * * * the Taft-Hartley Act has certainly cleared that issue up as far as our organization is concerned. All of the international officers, many of the district officers, and a great majority of our local union officers have signed non-Communist affidavits." If it is felt that discrimination results from requiring only union representatives to sign a non-Communist affidavit I can speak for our members and for myself in saying there would be no objection to my signing such an affidavit.

The provision involving secondary boycott is being tested now in a case before the NLRB in Washington involving picketing first of the Rolando, then of the Irwin-Lyons Lumber Co. mill and their logging operations, and since early in December picketing only of the Rolando at the company dock in North Bend, Oreg. This picketing was and is conducted by the International Longshoremen's and Warehousemen's Union, by the Marine Cooks and Stewards, and by the Marine Firemen, Oilers, and Wipers. The mill employees, the majority of whom were members of the LSW-AFL did not or could not pass the picket line. The logging crews, represented by the IWA-CIO likewise did not work. The present case before the NLRB will depend upon provisions of the LMRA for protection to the Irwin-Lyons Lumber Co. and to the AFL crews of the Rolando. A reversal to the Wagner Act would leave no solution for such a dispute beyond wasteful economic force.

Because of the shortage of time and the necessity of getting this material to you by February 7 to meet the speed-up schedule imposed by the House and Senate committees, I have limited the above account to the principal disputes which we have experienced.

Mr. TICHY. When the Wagner Act was adopted by Congress in 1935, I am of the opinion that Congress did not realize the tremendous latitude for administrative determination on very important phases of this act that they were placing in the hands of the National Labor Relations Board.

The great amount of unemployment in 1935, and the general economic conditions of our country, presented a very different atmosphere than that which existed during the war with full employment and postwar with approximately the same conditions. The Wagner Act was the green light for labor unions to start their great organizing and membership campaigns. At that time there were no huge labor monopolies as we know them today. The threat of communism to our economic structure was at a low ebb. There were no labor barons to threaten the economic structure of the country. For 12 long years after the adoption of the Wagner Act, labor unions continued to grow and prosper by leaps and bounds and finally became a dominant force in our economy. In fact, their force became so great that by 1947 we were brought face to face with the fact that a few labor groups had risen within our Nation to such great strength and power that they could control the very lives and economy of our great country. Yes, they could do this more so than any industry barons had ever done. The hearings before the Eightieth Congress clearly demonstrated the obsolescence of the Wagner Act and the need for more equity in the field of labor-management relations.

The Eightieth Congress overwhelmingly adopted, yes, even over a Presidential veto, the Labor-Management Relations Act, 1947. Congress, which had conducted long and extended hearings, had been convinced that this legislation was a step in the right direction. Naturally, the leaders of the big labor unions felt it incumbent upon them

to vigorously resist the curtailment of their power. But this is only natural and it was to be expected that they would through their powerful political action groups, endeavor with all their resources to regain their former favorable position, irrespective of the consequences to the public. As a spokesman for management, I perhaps should be opposed to the Labor-Management Relations Act of 1947, because that law controls management equally with unions and union leaders. Maybe we should fight for a more favorable atmosphere for management in view of what has happened to us in 12 years under the Wagner Act. Let me make it clear, however, that I am well aware that whenever employer or employees secure an advantage over the opposition, it is usually the public that is made to suffer. My people are well aware that any law dealing with human relations must be kept in tune with the times.

The Labor-Management Relations Act of 1947 provided and established a joint House and Senate committee as a "watchdog" for this purpose. They have been charged with the responsibility of eliminating any inequities or imperfections and to report back to Congress the results of their findings and their recommendations as an impartial judge of the adequacy of this labor law. That is an excellent provision in any labor law.

It is gratifying to know that this joint committee placed tremendous emphasis upon the need for protecting the people's best interests, not the 14,000,000 organized union workers, or not the employers, but first the 150,000,000 common people that go to make up this great commonwealth of ours. Their findings show that they have been very careful and impartial in their analysis of the Labor-Management Relations Act, and reveal that they were aware of their responsibility to equalize the powers of both unions and employers.

Before looking to a new labor law, one should determine what is wrong with our present law. Labor Department statistics show that the growth in union membership during the life of the present Labor-Management Relations Act of 1947 has not been retarded. Almost a million new members have been recruited by unions during the brief existence of this law. Also, let us take note that this new law did not deter the third round of wage increases. Further, unions can strike and have struck since the enactment of this law, as they did before its enactment. Today, the worker has regained his position as an individual with the right to work where he pleases and when he pleases. I hope that we will not be reactionary and return the individual workman to the position he had under the Wagner Act, where union rights superseded individual rights.

Certainly, we must all remember the terrible strikes that existed prior to the passage of this Labor-Management Relations Act, 1947, and the helpless position in which the general public was placed. Under the Labor-Management Relations Act there has been a noticeable decrease in strikes—in fact 33 percent less in 1948 than in 1946. Fifty-five percent less workers involved in strikes in 1948 than in 1946. Seventy percent less man-days of idleness in 1948 as compared with 1946. In 1946 there were 116,000,000 man-days of idleness resulting from strikes and in 1948 only 34,000,000 man-days of idleness.

Senator DONNELL. May I ask Mr. Tichy where he gets those statistics?

Mr. TICHY. Those statistics were obtained from the Bureau of National Affairs, Labor Relations Reporter, of about 3 weeks ago. Unfortunately, I do not have a copy of it with me.

Senator DONNELL. Do you think you could get a copy and have it filed with the committee? Not necessarily printed unless the committee desires.

Mr. TICHY. Yes. In further explanation I should say that the statistics for 1948 were obtained from that Bureau of National Affairs, Labor Relations Reporter. As I recall, the statistics for 1946 were obtained from the Monthly Labor Review published by the Department of Labor and that the computations are my own.

Senator DONNELL. Thank you. You will file with the clerk of the committee, therefore, the underlying data on which you computed all these statistics, will you?

Mr. TICHY. I will, sir.

Senator DONNELL. Thank you, Mr. Chairman.

(The information requested was submitted as follows:)

[Excerpt from the Labor Relations Reporter, published by the Bureau of National Affairs, 23 LLR 167-168, January 17, 1949, vol. 23, No. 23]

The following tabulation shows in the first line the number of strikes conducted during 1948, the number of workers involved in such strikes, and the number of man-days of strike idleness during the year. For comparative purposes, succeeding lines show corresponding figures for the years 1947, 1946, 1945, and the average over the period 1935 through 1939. The figures for 1948 are preliminary.

Period	Number of strikes	Workers involved	Man-days idle
1948.....	3,300	1,950,000	34,000,000
1947.....	3,693	2,170,000	34,600,000
1946.....	4,985	4,690,000	116,000,000
1945.....	4,750	3,470,000	38,000,000
1935-39.....	2,862	1,125,000	16,900,000

Mr. TICHY. Under the Wagner Act, only the employer was required to bargain in good faith and could and was subject to almost every unreasonable abuse by unions without any legal sanctions upon unions for their actions. The requirements established are reasonable, in the public interest, and do not unduly inconvenience either the employer or the union. An unfair union should not be permitted to operate without limitations; a sincere union should not want to.

Where is this so-called slave labor that was to be the lot of working people under this law? Look about you and you find none. Frankly it would appear the only people who have to fear this labor law are ruthless labor leaders who think more of their own personal gain than they do of the men they are supposed to represent. Of course, the Communists and fellow travelers also dislike the Labor-Management Relations Act of 1947, but the workingman has greater protection today than he has ever had. He is not only protected from the ruthless employer but also from the ruthless labor leader.

In essence the Labor-Management Relations Act has brought stability, responsibility, care, and caution to the collective-bargaining table by unions and employers alike, not confusion, as stated by the Secretary of Labor, Mr. Tobin. This, I testify to, not as a theoretical conclusion or from sitting a distance of 3,000 miles from the bargain-

ing table, but from actual day-to-day experience at the bargaining table.

The CHAIRMAN. Senator Morse.

Senator MORSE. Mr. Chairman, I want to say in the first place that I am happy to ask a series of questions of these two gentlemen from the west coast. One of them is a constituent of mine and one a former student. They know that we don't agree on every aspect of the Taft-Hartley law, but I think that it is important that they have an opportunity in behalf of this great western industry, the lumber industry, to make their case in these hearings. I seek to ask them a series of questions now which I believe will bring out the point of view that they have in regard to this act that they weren't able to cover in the short 10 minutes allowed them for an opening statement.

Mr. Tichy, in what manner do you disagree with the Secretary of Labor in his statement that the rights of the workingman have been abridged as a result of the Labor-Management Act?

Mr. TICHY. In my complete statement, Senator Morse, I have taken that subject up specifically, and if you will permit, I would like to quote from that statement.

Senator MORSE. I would be glad to have you handle it your own way.

Mr. TICHY. In my full statement I make the following statement:

Secretary of Labor Tobin, in appearing before this committee, stated that the right of the individual worker has been abridged. It is well for us to consider a few of the advantages that the individual employee has secured through the Labor-Management Relations Act of 1947:

1. When a majority of the individual members of a union feel that the union is not properly managing their affairs or representing them to their greatest benefit, they may, by following a prescribed procedure, dispense with the services of that union.

2. If a union-shop type of agreement exists in an operation, the union is forbidden to charge unreasonable and discriminatory initiation fees.

3. An individual is not required to join a union before accepting employment.

4. Employees have an opportunity to vote by a federally conducted, secret-ballot election to determine whether or not they are to be required to belong to a union as a condition of employment.

5. The employees may eliminate a union shop by secret ballot without fear of reprisal.

6. An individual's union dues cannot be used for the purpose of supporting or defeating political candidates contrary to his personal preference.

7. An individual employee who may be a member of a union by compulsion is free to take his grievances up directly with his employer.

8. Individual employees not only have the right to organize but the right to refrain from organization.

9. Individual employees should no longer be deprived of the opportunity to work by reason of jurisdictional disputes or certain secondary boycotts.

That is the listing of those as I went through the act in a hurry preparing this statement that I found to be granted to the individual employee.

Senator MORSE. Mr. Tichy, would you supplement that answer by way of an answer to this question: What benefits in your opinion does the Labor-Management Relations Act give to the people of this country?

Mr. TICHY. First, I would say that the Labor-Management Relations Act affords the public the advantage of not suffering the consequences of untimely or unwise strike actions or lock-out actions.

For one thing, the Labor-Management Relations Act requires that both employer and the union bargain in good faith, a specific pro-

cedure has been set forth. In that manner the parties should within the 60 days allotted by the Labor-Management Relations Act eliminate all of the inconsequential issues and get over that hot blood that frequently encroaches on the bargaining table so that through this period of 60 days you eliminate a lot of the unnecessary sore spots and get down to the real issues and have an opportunity to fully exhaust the issues that are at that table.

In that manner the public doesn't have to suffer what we call "quickies" or hot-blood strikes are protected by a full collective-bargaining process to which both the employer and the union must be subjected.

In addition, of course, the public under the national emergency provisions of the act have received some very substantial protection, as has been demonstrated by its use in six out of seven situations. As I understand it, the national emergency provisions were utilized in a total of seven situations, in only one of those seven did it go to a strike, which, of course, is in the public interest. I think that the public also gains a significant benefit under this act by this joint committee that has been established of the House and the Senate to constantly study this act. We recognize, we have to recognize, that our times are changing and that, as time goes on, certain features may no longer be necessary or new features may be required to supplement the present features. I think that is one of the faults of the Wagner Act. For 12 years it was hardly modified. It had become outmoded and outdated in that manner.

Senator MORSE. Do you interpret the Taft-Hartley law as providing for a continuation of the so-called watch-dog committee or was it for a brief period of time?

Mr. TICHY. Well, my recollection of the act is that they were to make a report to the present session.

Senator MORSE. Which has been done. The majority have reported and the minority is preparing its report.

Mr. TICHY. Which, of course, I say is to the advantage of the public.

Senator MORSE. Is it your view that such a committee should be continued?

Mr. TICHY. Yes; it is my view that such a committee should be continued. It is my hope that the future committees would be able to as impartially analyze the labor-management situation as I feel the last committee has done.

Senator MORSE. Is it your view if such a committee is continued, that it should be very careful not to invade the quasi-judicial functions of the National Labor Relations Board by requiring the Board to discuss with the committee any policies of the Board that might relate to cases that might come before the Board?

Mr. TICHY. As to individual cases, if I understand your question correctly, as to whether the congressional committee should be in the position of influencing the decision of the Board in an individual case, I would be opposed to that.

However, I do feel that the committee should watch the decisions of the Board so that the intent of Congress is fully complied with.

Senator MORSE. Let's dwell on that for a moment. Suppose the hypothetical that the committee decides that the National Labor Relations Board isn't following what the committee believes was the intent

of Congress. Do you think the committee should take that question up with the Board?

Mr. TICHY. Would you repeat your question?

(Question read by reporter.)

Mr. TICHY. I haven't given that sufficient thought to desire to express an opinion. I do believe that something should be done to assure that the Board is carrying out the intent of Congress.

As I understand, it would, as the present committee is set up, report back to Congress for a modification of the act rather than go to the Board. I am opposed to intervention in the judicial function but, at the same time, where you have an agency such as the National Labor Relations Board, which is quasi-judicial or administrative, the point that we want to accomplish is to assure that the congressional intention and the effect of the act is fully complied with.

Senator MORSE. Let's press my hypothetical a bit further, Mr. Tichy. There are two lines of approach the committee could take, are there not? The one line is to discuss the committee's views with the Board as to what the congressional intent was and the other would be for the committee to study the Board's decision, and if it felt that the Board was not following congressional intent and that an amendment to the act was necessary in order to, in effect, stop a line of Board decisions, it could follow that course of action.

I put those alternatives to you as a foundation for this question: Do you think it is reasonable to expect that if the committee should call the Board in and discuss with the Board the committee's view of congressional intent, that it would be possible to escape the conclusion that that act itself constitutes an attempt to bring influence to bear upon the judicial functions of the Board?

Mr. TICHY. It could be interpreted in that manner.

Senator MORSE. If you were a member of the Board, how would you interpret it?

Mr. TICHY. I think that there might be some resentment toward such an interference.

Senator MORSE. I will tell you what my attitude would be. I would resign from the Board any moment any congressional committee tried to put that pressure on me, for the simple reason, as I taught you in law school, and I am sure you well know, that, after all, the interpretations of what Congress intended is for the courts to determine and not for Congress subsequently to determine by seeking to tell the court what it intended when it passed the act.

Once that bill is enrolled, from that time on the question of congressional intent is for court interpretation. I am sure you agree with me on that. I have no objection to Congress following the processes of our administrative tribunals, and if it finds they are following a course of action that we think is not good public policy, to pass the legislation we think necessary to change that course of action. However, I am unalterably opposed to the Congress watch-dogging a judicial tribunal or quasi-judicial tribunal in the sense of even giving the public the impression that it is seeking to influence in any way its decision even on the subject of interpretation of congressional intent in a statute.

Senator DONNELL. Will the Senator permit one Senator to join with him in that expression?

Senator MORSE. I know that the Senator from Missouri completely agrees with me on that.

Senator DONNELL. I do thoroughly.

Senator MORSE. Were you here, Mr. Tichy, when Mr. Ching testified? You have been here so long I think you have been here from the beginning; haven't you?

Mr. TICHY. Not quite.

Senator MORSE. You didn't hear Mr. Ching?

Mr. TICHY. No; I didn't hear Mr. Ching's testimony.

Senator MORSE. Have you familiarized yourself with the contents of his testimony?

Mr. TICHY. No; I can't say that I have other than through the press releases.

Senator MORSE. Is it your understanding that Mr. Ching testified in support of maintaining the Conciliation Service as an independent agency, and his testimony at least has been interpreted by some, including myself, that he fears that the reputation of the agency for impartiality among employers would be questioned by many employers, at least, if it were returned to the Labor Department?

Assuming, at least, that is what his testimony means—and I think it does—do you share the view that the return of the Conciliation Service to the Department of Labor would be a mistake and, if so, why?

Mr. TICHY. I do share that view, and in discussing it with Mr. Irving I know that he shares the same view. I am inclined to believe that the vast majority of the employers in the lumber industry do share that view for the reason that the Labor Department—I believe in my full statement I coped with that particular problem, and if I can find it, it would be a clearer answer.

In any event, the employers appear to be satisfied, and I am inclined to concur, that the Labor Department is not an impartial agency.

Senator DONNELL. Mr. Tichy, would you refer to page 7 of your statement? I think you will find there in the last full paragraph the expression of views to which you refer.

Mr. TICHY. Thank you very much. In my full statement I make this comment:

The Federal Mediation and Conciliation Service was separated from the Department of Labor and established as an independent agency. The Department of Labor as the spokesman for labor can hardly be expected to render fair and impartial efforts to unions and management alike. Title V, section 611, of the United States Code, provides specifically that "The purpose of the Department of Labor shall be to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment." Only as an independent agency, not responsible to the Labor Department, can the Conciliation Service be impartial.

I would like to supplement that by stating that the experience of many of our employers over the period prior to this status as an independent agency has not been good. Now, unfortunately, I did not have too much experience because of service in the military forces to see some of this that has been told me upon my return, but I do know they feel much better toward the Conciliation Service, and I feel the Conciliation Service is able to do a better job today because they do feel it is an independent arm of Government, neither present to foster the interests of the union or the employer, that their efforts are to mediate and settle the dispute at hand.

Senator MORSE. This testimony of yours on this issue is a reflection not only of the views of the employers in the lumber industry, but is the views of employers in many other industries with whom you have discussed this matter in the Pacific Northwest; is that right?

Mr. TICHY. That is correct.

Senator MORSE. Do you share those views, Mr. Irving?

Mr. IRVING. I do.

Senator MORSE. Mr. Irving, have you examined the report of the Joint House and Senate Committee on the Labor-Management Relations Act of 1947?

Mr. IRVING. I have read that report.

Senator MORSE. Have you any comments to make on it?

Mr. IRVING. I think it is a fair statement of what the Congress might consider in the way of amendments to the Labor-Management Relations Act of 1947.

Senator MORSE. Do the recommendations contained in that report receive your endorsement?

Mr. IRVING. They do.

Senator MORSE. Do you know Mr. Roth of San Francisco, the chairman of the San Francisco Employers Council?

Mr. IRVING. I know Mr. Roth.

Senator MORSE. When he was before this committee the other day, he testified that the average wage in manufacturing industries was about \$1.36 per hour. Do you recall that testimony?

Mr. IRVING. Yes; I was told that is what he testified.

Senator MORSE. What is the average wage in your industry?

Mr. IRVING. I happen to have a BLS survey that has recently been completed that might be quite interesting. The beginning wage in my section of the lumber industry is higher than the average wage in manufacturing industries of the United States. In box factories they start at \$1.44 an hour and basic lumbering is \$1.425 an hour.

The BLS survey found that the average wage in that territory in which I work was \$1.74 an hour. That is very interesting to me because my statistics carried it out one decimal point further. I find that the BLS is accurate at \$1.743, according to my statistics. I would be very interested to know what their fourth figure might be.

Senator MORSE. Your testimony is that we are dealing here in the lumber industry with an industry that has exceptionally high wage rates for various job classifications and, therefore, is well above the national average as judged by the national average?

Mr. IRVING. That is right, Senator, and I would also say 12½ cents of that wage has been negotiated by the unions since the passage of the Labor-Management Relations Act in 1947.

Senator MORSE. Mr. Irving, what has been the effect of the Taft-Hartley law on union-security issues in your area, such as the union-shop contract?

Mr. IRVING. Prior to the passage of the act, the IWA, which is the CIO affiliated union in the western lumbering industry, had 35 percent of their contracts as union-shop contracts, so far as my particular area is concerned.

Now I know of only one contract that is not a union-shop contract with that union. The A. F. of L. has always had a higher percentage of union-shop contracts than the IWA; why, I don't know, but they

have had. Most of their contracts are union-shop contracts, although there are some that are what we call a modified union shop, which requires all new employees to join a union, but does not affect employees who were in the employe of the company unless they were members of the union at the time of the certification.

Senator MORSE. The joint committee, Mr. Irving, recommended the discontinuance of the union-shop election procedure as provided for in the Taft-Hartley Act. Do you join in that recommendation, too?

Mr. IRVING. I think if there have to be changes, that might very well be made. I would say this: That the Taft-Hartley law, when it cleaned up the reasons for which a man might lost his job at the request of the union—in other words, made it impossible for them to get his discharge from his employment except for the failure to offer initiation fees and the uniform required dues—probably removed a great deal of the objection of employees to union-shop conditions, and that is one of the pertinent reasons why they win the elections.

There is a second reason. We in negotiations have heard time after time that once you are a member of the union, there is no resignation. Now, the provision in the Taft-Hartley law providing for decertification petitions to the NLRB provides a road of return where there was formerly a road of no return.

I think that, too, has contributed to the removal of fear on the part of employees.

Senator MORSE. What was the situation in your industry prior to the Taft-Hartley law in regard to closed-shop contracts? Were there very many closed-shop contracts?

Mr. IRVING. In my section of the lumbering industry I have had experience with only one closed-shop contract insofar as lumber production is concerned. It was not a closed-shop contract in the formal sense, but it did provide a hiring hall and you can bet that nobody went to work at that company who wasn't a member of the union, so in effect it was a closed-shop contract.

May I say that condition no longer exists at that operation.

Senator MORSE. I want to say to my good friend from Ohio that I hope his present position augurs well for the future. [Laughter.] [Remark having been made because Senator Taft seated himself on the Democratic side.]

Mr. TICHY, have the members of your employers' association taken advantage of section 8 (b) of the act in regard to filing charges of unfair labor practices against unions?

Mr. TICHY. There have been no charges filed against unions for unfair labor practices under the Taft-Hartley Act, to the best of my knowledge.

Senator MORSE. Why? Because there haven't been any unfair labor practices?

Mr. TICHY. No; I don't think I can truthfully say that. However, our feeling, I think, might be better explained in this manner: The Taft-Hartley Act has brought a sense of responsibility to the other side of the table in our opinion.

Now I don't think that we are interested in using recourse against unions so long as they realize that sense of responsibility, the same responsibility that we have. For that reason, although there in all probability have been some unfair labor practices committed by

unions, we have not attempted to wash our dirty linen in court, preferring to do it over the collective-bargaining table, if we can.

Senator MORSE. Where they have arisen, you have sought to negotiate in regard to them rather than use section 8 (b) ?

Mr. TICHY. That is correct. We would prefer to negotiate our problems.

Senator MORSE. Along the same line, Mr. Irving, what has been your observation and experience in regard to your relations with your unions since the passage of the Taft-Hartley law ?

Mr. IRVING. In our particular area I think we are in the fortunate position of saying we have had pretty good relations with our two lumber unions since the Taft-Hartley law and for several years prior thereto.

Our relations have been pretty good down there. We have a high-class bunch of employees. I once had occasion to make a survey of the educational qualifications of about 800 employees in the mill where I was personnel manager, and the results were surprising. Seventy percent, for instance, of our logging employees were high-school graduates. The average education of all of our employees was just under the high-school graduate level.

That type of employee is a pretty good employee to deal with, and he is also a pretty good employee in seeing to it that his representatives work in a proper manner, so we have had a pretty good relationship with both the A. F. of L. and the IWA in my particular area of the lumbering industry.

I will say this: That the knowledge that they are responsible for the fulfillment of their contracts, their contractual obligations, and that that responsibility can be enforced through the courts just as any other contract can be enforced through the courts, has had a salutary effect.

Now I say that not only just from Taft-Hartley experience. The committee may be aware that the State of California—and more than half of my member companies are in California—had just such a requirement as a war emergency measure, and it had that effect for 4 or 5 years during the war.

Senator MORSE. As I recollect, Mr. Irving, at one time there was an issue in the industry in regard to plant guards and a rather strong feeling among the employers that they should not be considered as part of the union, and under the Taft-Hartley law they were removed.

What has been your experience in regard to the plant-guards issue since the Taft-Hartley law ?

Mr. IRVING. You are quite correct, but in the lumber industry we do not call them plant guards, we call them watchmen. Employers have always felt these men who were charged with the protection of their property and charged with the enforcement of the rules around the plant, charged with seeing to it in effect that the insurance-company requirements were complied with, were in the position of serving two masters when they had to belong to the production union.

I find it difficult to conceive of an old watchman finding the president of a union in a restricted territory and doing very much about it. It is pretty hard to serve two masters and to be open to punishment from both sides of the fence.

Senator MORSE. One of your main complaints was over this question of the duty of the watchman to do everything possible to reduce the fire hazard both at the plant and in the woods; is that correct ?

Mr. IRVING. That is right, and in many places the watchmen also are to report hazardous conditions affecting the safety and also to report unwholesome sanitary conditions and those things. Since the enactment of the Taft-Hartley law our employers have insisted on guards coming out of the production units and in the Sawmill Workers, A. F. of L., with which we deal, they didn't put up much argument about that. They thought that was what the law meant.

The International Woodworkers took another viewpoint, but we managed to settle with them by a stipulation which recognized that there was a difference of opinion between us and that eventually that problem would be solved by the National Labor Relations Board, so we executed that stipulation, which in effect stated that the employer took the position that the watchmen were excluded from the bargaining unit. The union did not agree. However, until such time as there was a ruling by the NLRB or by the courts, that would be a precedent, which could be recognized by both parties, that position would be maintained and there would be no bargaining with the union over wages, hours, and working conditions affecting the watchmen.

Eventually a decision was rendered by the National Labor Relations Board in the Potlatch Forests case. I do not have the number of that. I have been advised by the president of the district council that they considered that a precedent case, so the issue is closed. I say that in order to prove that you can negotiate settlements under the Taft-Hartley law.

Senator MORSE. It is my understanding, Mr. Irving, that it is your opinion that the 12 months' lapse requirement under the Taft-Hartley law in the cases of either representation elections or union-shop elections meets with your approval; is that right?

Mr. IRVING. It does, Senator.

Senator MORSE. Why?

Mr. IRVING. In my experience I have seen the National Labor Relations Board under the Wagner Act order elections, bang, bang, bang—in other words, three elections I have seen in 5 or 6 months. The employees get awfully tired of being whipped back into an election. They feel that the union and the Government perhaps are conspiring against them to make them continually vote and vote and vote and eventually they vote for a union out of sheer disgust in order to get rid of the organizing efforts.

With this provision that there cannot be another election for a year, the unions do a far better job of organizing than they did in the past. They really go in and explain their theories to the individual employees, they sell their product just as anybody else has to sell a product in this country of ours.

Senator MORSE. Do you think it has a stabilizing effect?

Mr. IRVING. Yes, because the employees are sold on the value of the union, and it makes a stronger union based on intelligent selling efforts, and our employers would rather deal with that kind of a union.

Senator MORSE. Mr. Tichy, what has been your experience with the suit-for-damage section of the Taft-Hartley law, if any?

Mr. TICHY. I would make the same comment there as in relation to the unfair labor practice against unions section, 8 (b). We have not had any suits to the best of my knowledge by employers against the union under that section. However, it again has brought a sense

of responsibility to both sides of the table so that each will be more cautious and will exhaust the subject matter at hand and do it with considerable care.

Senator MORSE. What has been your experience in regard to the check-off restrictions?

Mr. TICHY. We have very few check-off clauses in our territory. However, I would like to comment briefly on, I believe it was, the Solicitor General's opinion or an opinion from the Attorney General's Department relative to the scope of the word "dues" under that provision of the act.

As I recall that opinion—I haven't read it for several weeks now—but he considered the word "dues" to be almost all-inclusive, which I don't believe, from my little knowledge of the congressional intent, was contemplated by Congress at the time the act was passed.

I believe that the joint committee in their report, if my recollection is correct of that report, is aware of that interpretation.

Senator MORSE. Mr. Irving, what is your position in regard to the filing of financial statements by unions and the relationship, if any, of the filing to collective-bargaining problems?

Mr. IRVING. The filing of those financial statements has no assistance to employers or employer representatives as far as actual collective bargaining is concerned, but let me say this, Senator:

Ninety percent of my friends are people who work with their hands; most of them are members of unions. Ninety percent of the people who come to my house as guests also are that type of people. Ninety percent of the people to whose homes I go are that type of people because of my background in lumbering. Those people sort of like that requirement.

Senator MORSE. Mr. Tichy, what is your position and the position of your industry, to the extent you can speak for it, in regard to the Communist affidavit?

Mr. TICHY. Sir, the Communist affidavit neither adds nor detracts, as I see it, in regard to the collective-bargaining process. In other words, it is no help to the employer particularly to have the union sign an anti-Communist affidavit.

However, aside from that factor, as a representative of the public, as one of the public, and our people as members of that group referred to as the public, and many of my friends feel that that section of the act which requires the filing of an anti-Communist affidavit is a good section, and my own position as a representative of employers—and I know that is Mr. Irving's position and many others of us who represent employers and those who are employers throughout the western territory—would feel only pride to be able to sign such an affidavit and many of us have signed those affidavits when we had temporary Government jobs during the war.

As I recall, when you became a member of the War Labor Board staff, you signed an affidavit in sum and substance similar to the affidavit requirement of the Taft-Hartley Act.

Senator MORSE. Would you object to the substitution for the non-Communist affidavit, the substitution to be applicable to industry members as well as unions, a more general loyalty pledge than the specific one dealing just with the Communist problem?

Mr. TICHY. As I read the act and, of course, I can be in error, the pledge called for is rather general in that it states that you do not

believe in the overthrow of the Government by force, if my recollection is correct.

Senator MORSE. Which refers specifically to what has become the legal definition of an objective of the Communists.

Mr. TICHY. Well, I perhaps construe this differently than you do, Senator.

Senator MORSE. You may be right and I may be wrong, but our cases at least thus far have particularly expressed in this Communist matter the proposal to overthrow the Government by force.

My question goes to the question as to whether or not we shouldn't have a loyalty pledge for employers and labor alike in support of our constitutional form of government of the type that Members take, for example, when they go to Congress.

Mr. TICHY. I would see no objection to it at all. The only thing that makes it difficult for me to answer that question is I do not exactly conceive just what type of loyalty pledge you have in mind.

Senator MORSE. I am sure, knowing you as I do, you would share my view that we should seek to prevent any subversive activities in this country whether they are of one ism or another. That is true, is it not?

Mr. TICHY. I concur wholeheartedly.

Senator MORSE. What about the grievance procedure of the Taft-Hartley law?

Mr. TICHY. I feel that the grievance procedure of the Taft-Hartley law—I imagine you are referring to section 90, wherein the individual employee is given the right to have his grievance adjudicated as an individual—is a good provision from the standpoint that the union is not undercut, as some might believe. They are given an opportunity to be present throughout the consideration of the grievance—I am referring to the union—and, secondly, the decision must be in conformance with the working agreement that exists at the plant.

We do know that there are a fair number—I couldn't guess how many—of the employees who are under these union-shop agreements that are members of the union, not voluntarily but by reasons of the compulsion of such a provision, and to give them this opportunity to present their grievances is going to improve, as I see it, the labor relations of that operation, and certainly it doesn't undercut the union because, as I say, it must comply with the working agreement.

Senator TAFT. There may be nonmembers of the union?

Mr. TICHY. That is correct. I referred to the union-shop plant, Senator.

Senator MORSE. Do any of my colleagues wish to ask either of these witnesses a question? If not, we rest.

The CHAIRMAN. Senator Murray.

Senator MURRAY. I might ask you one question. You say you think it would be a mistake to remove the Conciliation Service and put it in the Department of Labor?

Mr. TICHY. I do, sir.

Senator MURRAY. Why do you think that would be a mistake?

Mr. TICHY. As I explained earlier, Senator, my experience has not been too thorough prior to my return from the Service. However, upon my return I observed a considerable feeling on the part of employers that they weren't getting what we might call a square deal from the Conciliation Service in an effort to mediate the disputes under

the Wagner Act, because of their affiliation with the Labor Department.

We do know that, if nothing else, it will give the employer and has given the employer under the Taft-Hartley Act a better sense of fair play and a greater desire to listen to the services of the conciliator by reason of the fact that he is impartial and comes from an independent agency.

Senator MURRAY. That seems to be contrary to the testimony of a witness here yesterday, who was a former Assistant Director of the Conciliation Service, and he testified to the effect that there was absolutely no difference between the operations of the Conciliation Service under the Wagner Act and under the Labor Relations Act as it would be outside of the Labor Department.

Mr. TICHY. I couldn't agree with him, sir, on the basis of my own experience. However, Mr. Irving has had a longer experience in that particular connection and he may wish to comment further, if it is agreeable with the Senator.

Senator MURRAY. I would be glad to have a comment from Mr. Irving.

Mr. IRVING. Senator, I have never called in a conciliator in my life. There is a reason for it. Prior to this change the employers' reaction was immediately, "Just another union business agent." So I lost interest in calling them in.

I notice a change in the employers' viewpoint.

Senator MURRAY. In the employer viewpoint?

Mr. IRVING. Yes.

Senator MURRAY. Wouldn't that be the result of the general attitude of the employers in connection with the passage of the Taft-Hartley Act? Didn't they get together and have a sort of understanding among themselves that they were going to support this legislation, and isn't it a fact that they held a conference among themselves and didn't they spread out over the country a great amount of propaganda in support of the enactment of this legislation?

Mr. IRVING. I don't think there is any doubt about that, Senator, but let me say this—that this change in the Conciliation Service has made it possible for those of us who are professional labor-relations men—I am not an attorney, but a professional labor-relations man—made it possible for us to get the conciliator into the collective-bargaining conference in a much better atmosphere.

Senator MURRAY. Did you hear the testimony of Mr. Walter Munro here yesterday?

Mr. IRVING. Whom does he work for?

Senator MURRAY. He was an Assistant Director of the Conciliation Service.

Mr. IRVING. What is his position now? Maybe I can place the man.

Senator NEELY. Assistant to Mr. Whitney, president of the Brotherhood of Railroad Trainmen.

Mr. IRVING. No; I didn't hear his testimony.

Senator MURRAY. He testified here yesterday at considerable length. He is a man of very considerable experience in this field of conciliation. He told us that in his judgment after his years of experience in the Service, that it should be in the Labor Department.

Now the mere fact that the employers are satisfied to have it outside the Labor Department isn't any argument, it is a mere conclusion on their part, that they would rather have it outside the Labor Department, but I don't see any facts which they have submitted here to this committee which would justify them in arriving at that conclusion.

Mr. IRVING. Senator, did the Director of the Mediation Service, Mr. Ching, testify—I understand he testified it was his belief it should be maintained separately. I am presuming, since I know Mr. Ching, that he consulted with his conciliators about that. Despite Mr. Munro's testimony, a secret-ballot poll among the conciliators might be most interesting.

Senator MURRAY. Well, we cannot take that poll right now, I suppose.

Senator NEELY. Mr. Chairman, have polls been worth anything since the last election?

Senator MORSE. Secret ballots were pretty good. The last election showed that secret ballots were pretty good. [Laughter.]

Senator MURRAY. At any rate, it seems to me that the mere statement of the conclusion that it can hardly be expected that the Conciliation Service would render unbiased service while it was under the Labor Department is, it seems to me, absolutely without any justification.

Mr. IRVING. Senator, if the Service were perfectly unbiased they would lose their influence with the people who thought they were biased.

Senator MURRAY. Why would they lose their influence with them? Would there be any justification for the employers merely because this was being placed in the Labor Department to refuse to have anything to do with the Conciliation Service that had previously been a good service and brought about excellent results?

Mr. IRVING. Senator, mine is not to reason why. Let me merely report to you that is what happens.

Senator MURRAY. That is the attitude of organized industry. That is all.

The CHAIRMAN. Senator Neely.

Senator NEELY. No questions.

The CHAIRMAN. Senator Douglas.

Senator DOUGLAS. What did you say were the average hourly earnings in the lumber industry?

Mr. IRVING. I quoted to you from a BLS survey, just completed, based upon the month of August, which shows that in, what we call the PIRC average, this is the association with which I am affiliated, the average hourly earning is \$1.72—excuse me. The \$1.74 figure that I used was a Douglas fir figure, and I was incorrect. There is a 2-cent difference.

Senator DOUGLAS. Do you have figures of your own on that?

Mr. IRVING. Yes; I have figures of my own that are quite interesting. They carry out to \$1.723, and box factories are included, and, incidentally, box factories were not included in the BLS survey, and minus the box factories, \$1.739.

Senator DOUGLAS. So that the two figures agree almost precisely, do they not?

Mr. IRVING. The BLS made a very accurate survey.

Senator DOUGLAS. Are you aware of the fact that the Bureau of Labor Statistics is under the Department of Labor and under the direction of the Secretary of Labor?

Mr. IRVING. I am.

Senator DOUGLAS. Do you think that the alleged bias of the Secretary of Labor communicated itself to the Bureau of Labor Statistics? I should add, of course, that I do not think there is any such bias.

Mr. IRVING. I doubt that it did.

Senator DOUGLAS. Has not the record of the Bureau of Labor Statistics been one of complete integrity?

Mr. IRVING. It has been pretty good, as far as I am concerned, Senator.

Senator DOUGLAS. Then, why do you think the Bureau of Conciliation would be contaminated by being included in the Department of Labor?

Mr. IRVING. Senator, I think I made myself very clear. I was not expressing my personal opinion. I was expressing the results that I have observed in 14 years of collective-bargaining work, that the employers have no confidence, had no confidence in the Conciliation Service.

Senator DOUGLAS. But you had confidence in the statistics of the Bureau of Labor Statistics.

Mr. IRVING. I am not sure the employers did.

Senator DOUGLAS. But you do.

Mr. IRVING. Yes.

Senator DOUGLAS. So that any bias that the Department might have is certainly not a bias which has communicated itself to the figures of the Bureau of Labor Statistics.

Mr. IRVING. I think that is right.

Senator DOUGLAS. That is all.

Senator MURRAY. Among the unions, among organized labor, there is a general impression that industry would like to weaken the Labor Department. Would that have any influence in their attitude with reference to this matter that you have discussed?

Mr. IRVING. No; I do not think so.

Senator MURRAY. You do recognize, though, that there is a general impression that there was a desire on the part of industry to weaken labor, weaken the Labor Department.

Mr. IRVING. You mean labor thinks there is a general impression?

Senator MURRAY. Yes.

Mr. IRVING. Well, I suspect that they have expressed themselves that way.

Senator MURRAY. Yes, and that has become quite widespread in this country, that this is a battle between industry and organized labor, and that organized industry, on its part, is doing everything it can to weaken labor and to weaken the Labor Department and weaken everything connected with the protection of organized labor.

Mr. IRVING. I think probably the general public which has been paying for this labor strife feels that way, all right.

Senator MURRAY. Paying for what?

Mr. IRVING. The general public which has been paying for this economic warfare between—

Senator MURRAY. They are paying for it?

MR. IRVING. Economic warfare between the employers and the unions; and they probably feel this is a warfare between organized employers and organized labor.

As far as my particular group of employers are concerned, I think they have no interest in weakening the Department of Labor. I believe that most of them would like to see the Bureau of Labor Statistics continue some of its very excellent studies. I simply wanted to bring out that from my experience, conciliation and mediation had not been effective during the pre-Taft-Hartley days, because employers took the enabling act—

Senator MURRAY. Can you give us any—

MR. IRVING. May I finish, sir? Employers took the enabling act creating the Department of Labor literally.

Senator MURRAY. Can you give us any examples, concrete examples, of where that situation can be found?

MR. IRVING. Senator, we always, the employers always, treated the Government representatives with respect. Concrete examples, no, but let me say, they did not get their work done properly no matter how they tried.

Senator MURRAY. That is all.

The CHAIRMAN. Mr. Tichy, I have been interested in your philosophy with respect to watchdog committees and their work, and I note that when it came to watching the judiciary you did not like that quite so well. But don't you think that the President of the United States should have some kind of a watchdog looking at the Senate and the House of Representatives to see that they do their duty, live up to their constitutional duties?

MR. TICHY. Sir, I have always been of the opinion that the Congress of the United States was the representative of the people and as such was to express the opinions of the people as they are elected. Therefore, as I see it, the watchdogging, if any, should be done by the representatives of the people, the Congress, the legislative arm rather than the group that is to execute the law or to interpret it.

The CHAIRMAN. Then, it would be all right for Congress to have a watchdog committee to see that the President lived up to his Presidential discretion?

MR. TICHY. No.

The CHAIRMAN. And his other jobs that he has imposed upon him?

MR. TICHY. I would say that it would be inappropriate, and I imagine, as the congressional or legislative function is carried out, that the Congress is aware of the manner in which the President is executing the laws and is aware of the judicial determinations of the courts that are to interpret the laws, and in that manner pass legislation to correct any of the situations that may arise wherein Congress does not believe that its intent has been carried out in connection with particular legislation.

Senator MORSE. Might I add that 42 of us are doing it now.

The CHAIRMAN. The President is a bit responsible for all of the departments in the executive branch, is he not?

Do you think it would be helpful if the President had a sort of watchdog aide to look at the Treasury Department, and then look at the Army and the Navy, and report to him, seeing whether the Secretaries are doing their duty?

Mr. TICHY. Well, those are his appointees.

The CHAIRMAN. That is all the more necessary, therefore, that he should know just exactly what they are doing; is it not?

Mr. TICHY. I had assumed that he made these appointments with care and caution, and had confidence in his appointees. I believe I have answered the question, Senator. I do not mean not to answer.

The CHAIRMAN. I want to carry it on, because you, yourself, used an awfully interesting word there, the word "confidence," and that is a word that I want to bring out.

I might as well tell you what I am trying to do. Don't you think it would help in the way in which we carry on things here in the Senate, since this committee is a subcommittee or is a committee of the whole Senate, that Senator Wherry, if he is acting leader, should have a watchdog here to see that the Republicans carry on right, and that Senator Lucas should appoint another one to see that we carry on properly?

Mr. TICHY. Of course, there are some limitations to this philosophy. [Laughter.]

Senator NEELY. Mr. Chairman, I hope that the witness will not suggest any limitations that would prevent the appointment of a second watchdog committee to watch the first watchdog committee. [Laughter.]

The CHAIRMAN. Let us forget the Government now, and get this watchdogism into our industrial life. Of course, you think it would be all right for a labor union to appoint a watchdog committee to see that the employers lived up to their contract? Would that be all right?

Mr. TICHY. Well, the limitations that I tried to speak on here a few moments ago are that when you get so close to the thing, such as the dealings of the employer and the union, as I see, there would be no necessity because each of them are living with this thing on a day-to-day basis.

However, as I understand the situation as it was under the Wagner Act, it would certainly have necessitated or could have well used a watchdog committee to have guided some of these interpretations that came out of that act; and, secondly, to have watched the trends in industrial relations in order to have corrected a situation sooner. In other words, I feel that today one of the reasons why this problem has reached such an apex is because we have for 12 years been living with an act which has not been changed or modified to any great degree and have ignored the transition that has taken place in our social, political, and economic life.

The CHAIRMAN. That answer leads me, of course, to another one. Now, surely you would justify the employers putting watchdogs on the unions to see that they lived up to their contract; would you not?

Mr. TICHY. I do not see any necessity for it, because you are dealing with this thing on a day-to-day basis, so that you, as the employer, see what violations, if any, take place under the contract and are brought to the attention of the union in the ordinary course of business, and the union is just as alert in the same manner.

The CHAIRMAN. Now, you mentioned the reason why you think the National Labor Relations Act came into existence. But, after the National Labor Relations Act came into existence, you remember that a subcommittee of this committee held hearings on what we called

civil liberties, and we found that it was, not a universal, but a very, very general practice, for industry to employ various kinds of watchdogs to see what labor was doing, carrying on. Do you think that was a healthy condition?

Mr. TICHY. Unfortunately, I am not aware of the committee's report. I am not familiar with the committee's report.

The CHAIRMAN. You are not aware of the civil-liberties hearings we carried on here for about 5 or 6 years?

Mr. TICHY. Well, I am aware of their existence, but I am not familiar—

The CHAIRMAN. You never read them?

Mr. TICHY. The reports, no. I do not believe I have.

The CHAIRMAN. I do not think you could understand the meaning of the National Labor Relations Act at all unless you studied those things. Let us take you back into a little bit more of the history. You undoubtedly want to get to the place where there are no strikes; do you not?

Mr. TICHY. Certainly.

The CHAIRMAN. Well, one way out would be the philosophy of a union that was very strong up in Washington and Oregon and northern California, especially among lumbering men, during the last war, and right after the last war.

Does your memory go back to that time?

Mr. TICHY. You are referring to World War II, sir?

The CHAIRMAN. World War I.

Mr. TICHY. I am sorry, my memories do not go back that far.

The CHAIRMAN. Did you ever hear of the Industrial Workers of the World?

Mr. TICHY. I heard of them.

The CHAIRMAN. What did you think of the wobblies? [Laughter.]

Mr. TICHY. Sir, I do not believe I am in a position to properly respond to that question.

The CHAIRMAN. You never studied any of their cases?

Mr. TICHY. Oh, yes.

The CHAIRMAN. What they were trying to do?

Mr. TICHY. Yes; I have read of them and of their philosophy, and so on, but I do not feel that I am in a position to comment on them because I had no personal experience.

Senator TAFT. How old are you?

Mr. TICHY. 30.

Senator TAFT. 30.

Mr. TICHY. Yes, sir.

The CHAIRMAN. Well, that is fine. I think it is just as well not to be able to remember some of those things, but in the history of our industrial relations we are taking another step. If, for instance, the present bill before us becomes law, it will mark another step, either progressive, upwardly, or regressive, backwardly, some kind of evolution; we cannot stand still, and we have to get acquainted with all of the history of industrial labor relations.

Now, I want to get back to your watchdog and that word "confidence" which you used.

Mr. Irving has mentioned that he has always been associating with the people who are on the working end, workers, and he has built up a

spirit of confidence. Can you have a spirit of confidence anywhere in anybody under a watchdog system or under the old spy system, or any notion where you cannot trust your friend?

Mr. TICHY. I did not contemplate or understand this so-called watchdog committee as provided for the Labor-Management Relations Act as a spy set-up.

The CHAIRMAN. No, but it gives me a chance to carry your philosophy on a little bit farther. What if we made it common practice with every bill? I think it is one of the worst things that has ever happened to this Congress for the Appropriations Committee and the Foreign Relations Committee and this committee to have a joint committee to carry on a watchdog theory. Immediately that you set up another institution which is quite different, it upsets the whole arrangement. I do not think it is good, and I do not think it is good in industrial relations.

I would like to have you, as a representative of industry, say here before us all that we do not want to return to those good old days of industrial spying, espionage, sabotage, all of that type of thing. Would you not like to have labor on the up-and-up in every way?

Mr. TICHY. Certainly, I think that is fine.

The CHAIRMAN. And industry on the up-and-up?

Mr. TICHY. Certainly.

The CHAIRMAN. That is a little bit more ideal, is it not, than trying to keep track in other ways?

Mr. TICHY. I do not see the point, Senator.

The CHAIRMAN. You do not?

Mr. TICHY. Of your questioning.

The CHAIRMAN. I will teach you the point. You go into a meeting with your associates and let somebody whisper in your room that you have got to be careful of Bill because he is here, not for the same purpose as the rest of you are here, but because he reports to somebody.

Did you do any service in Germany?

Mr. TICHY. No, sir.

The CHAIRMAN. In Japan?

Mr. TICHY. No, sir.

The CHAIRMAN. In Russia?

Mr. TICHY. No, sir.

The CHAIRMAN. Well, there are a lot of influences in the world that are worth studying, especially for you in this position you have got now, and if you are going to try to get out decent industrial relations, get just as far away from watchdogism and spying, the breaking of trust, and let that old word of yours that you have used here, "confidence," become the fundamental idea of what you are trying to do.

Mr. TICHY. Sir, if I may briefly comment so that there will be no misunderstanding, permit me to assure you that the members of my organization, to the best of my knowledge, and, as far as that goes, the organization that I represent, do not believe in spying from the standpoint of labor relations at all.

The CHAIRMAN. It does not believe in it at all any more. They have completely done away with the notion; have they?

Mr. TICHY. To the best of my knowledge.

The CHAIRMAN. Then, the National Labor Relations Act must have done some good.

Mr. TICHY. Well, if it existed prior to that time, sir.

The CHAIRMAN. Well, it did. I suggest that you get some of those reports and go through them.

Senator DONNELL. Mr. Chairman, might I ask the Senator this question? Is the Senator implying that the Joint Committee of the United States Congress, consisting of seven members of the Senate Committee on Labor and Public Welfare, to be appointed by the President pro tempore, seven members of the House of Representatives Committee on Education and Labor, to be appointed by the Speaker of the House, was a spy espionage committee; that it has duties set forth—

The CHAIRMAN. The Senator is not implying anything at all; he is asking a question to see just how much background these men have in the history of industrial labor relations.

Senator DONNELL. Would the Senator object to my just mentioning, if I may do so, that it seems to me that any possible inference that there was an intention that this Joint Committee created by the Taft-Hartley Act should be a species of espionage is decidedly unjustified. It tells in the bill here that the committee is authorized to hold hearings, to sit and act and require at such places and so forth as it may choose, by subpoena the production of books and papers, and the very purpose set forth in the act is to conduct a thorough study and investigation of the entire field of labor-management relations. There is nothing in the Taft-Hartley Act, as I see it, that even remotely contemplates a species of Russian espionage, going in the back door at night, to discover things secretly, wire tapping, and so forth.

The CHAIRMAN. I will make one more statement. If we hired a strike-breaking spy organization and gave them the nice, fine instructions that are in the bill there, would that make them any less what they are? What I want you to do is to study the civil-liberties hearings.

Senator DONNELL. To whom was the Senator addressing that inquiry?

The CHAIRMAN. I am addressing it to the witness.

Senator DONNELL. Very well. I would like to answer it.

The CHAIRMAN. Incidentally, the chairman will just remark that it was because the Senator from Missouri was so frightened that somebody might have a committee investigating a court, or a quasi-judicial court or something of that kind, that I left all of those things out of the field because there is no way of breaking down trust between the executive and the courts, or the Congress and the courts. That has never happened in the history of the country, that Congress has been suspicious of the courts, you know. We just have an idea that it is always a matter of being lovely and pretty there. But they have had their troubles just the same as everybody else, and the root of all of those troubles is a lack of confidence—the word that you used.

This may be a sermon rather than an examination, but, if it is a sermon, take it as such, and I think you men in industrial relations ought to study the history of our country very, very much, and I think that one way to study the history of the country is to get history books and go after it instead of getting communications and things that are quoted, and you want to quote and unquote from.

I am through.

Mr. Wilson, please. Mr. Wilson, will you state your name and anything you want to have appear in the record about you?

STATEMENT OF CHARLES E. WILSON, PRESIDENT, GENERAL ELECTRIC CO., ACCOMPANIED BY L. R. BOULWARE, VICE PRESIDENT IN CHARGE OF EMPLOYEE RELATIONS; VIRGIL DAY, ASSISTANT TO L. R. BOULWARE; G. H. PFEIF, MANAGER, UNION RELATIONS; AND GERARD REILLY, COUNSEL

Mr. WILSON. My name is Charles E. Wilson, and I am president of the General Electric Co.

Mr. Chairman, I am taking the liberty of bringing to the table here with me my associate, Mr. Lemuel Boulware, who is vice president in charge of employee relations of the company, who is the man whose job it is to do most of the work along the lines that you are here interested in.

Do you want me to proceed with the statement I have here, sir?

The CHAIRMAN. Yes.

Mr. WILSON. My assumption is what we all seek here is labor law that serves the public interest—that is fair to employees, to unions, to employers—while adequately protecting innocent bystanders and the whole public.

Three years ago, when I testified on this same subject before this committee in the Seventy-ninth Congress, I stated my belief that in this country we have passed the era of considering the interest of either management or unions as being preeminent. I urged then that the interest of the whole public should be accepted as paramount. I urge it again today.

I have spent a whole lifetime—in private and in public service—trying to increase our country's standard of living by increasing our production. In this effort I have come more and more to see and to believe in both the human and the material values of our freedoms.

I am genuinely alarmed at the bill before you because of what seems to me to be its threat to our individual and collective freedoms through removal of safeguards now so wisely in force.

The CHAIRMAN. Mr. Wilson, I have to stop you for a moment to tell you about the procedure of the watchdog committee. [Laughter.]

The theory under which we are operating, according to the last rule we adopted, is a 10-minute summary of your statement. Your whole statement will go into the record and then there will be questions.

Mr. WILSON. Thank you, sir. I do not think I will take more than 10 minutes, sir.

The CHAIRMAN. I just wanted to let you know.

Senator TAFT. It will take you about 35 minutes to read all of this.

Mr. WILSON. Well, I will not attempt to read the whole statement. I think the part that I may not be able to read can come out in questioning.

The CHAIRMAN. The whole statement will appear in the record, Mr. Wilson.

Mr. WILSON. All right, sir.

The first of these threatened freedoms is the freedom to work.

The present law's banning of the closed shop, together with the provisions protecting a man from losing his job because he may have offended those in power in his union, were important return steps toward again guaranteeing to the working force of our Nation this basic right: the right to work.

Such provisions need to be strengthened. To remove them would be to take a step backward. To permit a man or woman to be arbitrarily deprived of the very means of livelihood on someone else's whim or to give one organization an entire monopoly on jobs, simply is not in accord with what public policy should permit.

The second of our threatened freedoms is freedom of speech.

In this respect, prior to the present law, one of the darkest areas in the whole country existed in certain union practices where economic oppressions and reprisals were heaped upon a member who dared oppose the group in power or boldly exercised freedom of speech, or who asked for an accounting of how his money had been spent, or for an honest election, or in some cases for an election at all. To say such practices were unusual or few in number is no answer. The fact is, men were denied their rights.

Further, management certainly should have the right, equally with unions, to state its case to its employees and the public. Either side should be permitted free speech equally, as long as no unfair promises or benefits are held out and no threats of reprisals made.

Third, freedom from waste, human and economic: The jurisdictional strike has no defenders. Likewise the true secondary boycott is, often, an effort to enforce labor monopoly practically at pistol point. Granted, the President has asked some curbing of these. To be effective, the machinery to do so must be instantly available and promptly used, so that the remedy is at hand before the damage is done.

Featherbedding, also, is a burden on the backs of the whole public, adding costs and delays that the public should not be asked to bear and that, in the end, benefit no one.

Fourth, freedom from national paralysis: The whole prosperity of our people, our whole standard of living, rests on the use of our productive capacity. The entire productive facilities of the Nation should not be subject all at once to stoppage by some strategically placed union group. I believe in the right to strike, but I do not believe this right should be so abused by a relatively small group as to tie up and damage the whole country.

The present power of the President to protect the Nation from strikes that threaten the national health and safety certainly must not be weakened. On the contrary, you probably will want to explore how it may be strengthened and made more effective.

Since General Electric operates the great plutonium plant for the AEC at Hanford, we naturally watched with concern during the atomic energy dispute at Oak Ridge last year, in which the President felt he needed all the teeth in the present law and used all six steps the act contemplates. Not only for atomic energy, but in other vital industries, the public interest must have effective protection. We have all seen the President need—and use—the machinery of the present law in what seems to be his annual coal problem and his periodic shipping problem.

Any adequate and fair labor law, by whatever name, must, in my opinion, provide at least the following:

1. Protection of the public.
2. Protection of the rights of individual employees from abuses either by employers or unions.

3. Protection of legitimate rights of both unions and employers.

4. Requirement of equal responsibility on the part of both employers and unions (one-sided legislation obviously will produce one-sided results, as we saw under the Wagner Act).

5. Protection of free speech for both employers and unions.

6. Protection of freedom to earn a livelihood.

To meet these requirements, I believe any good labor law must now deal with at least 12 specific areas of need which we consider in our own operations, or observe elsewhere. I would now like Mr. L. R. Boulware, who is our vice president directly responsible for employee and union matters, to make specific recommendations based on our experience.

MR. BOULWARE. I will just have to touch upon these, sir, and come back to any one in which you are interested.

The first one is communism. Not only as a private employer, but as a contractor for the Atomic Energy Commission, we believe the labor law should require affidavits of both company and union officials that they do not belong to the Communist Party or to any part which plans, teaches, or advocates the use of force or violence to overthrow the Government of the United States. We believe we see, at various places, some examples of members in unions having been aided by the non-Communist affidavit requirement in making progress toward better local and top leadership in their unions.

With respect to jurisdictional strikes, General Electric has had experience with this type of strike. Just one recent instance concerned a dispute between two unions at a research laboratory of ours engaged in secret United States Navy work.

Under the present act there was quick relief from the NLRB. The settlement precipitated by this was, as it happened, exactly in accordance with past practices in the community. Without the law, serious damage would have resulted to the company, to many workers, and to the Nation.

Our company has experienced, and is experiencing, instance after instance of this, at Schenectady, Syracuse, Jersey City; in California and Kentucky and practically all over the Nation. I would be glad to detail some of these if the committee should want to hear of them later in the question period.

Secondary boycotts: A true secondary boycott at our radio tube plant in Owensboro, Ky., hangs over our heads as we deliberate in this room, a typical case of a union trying to organize a nonunion contractor by telling a company using the contractor's services to see to it that everybody you deal with "joins up or we'll put you out of business." I will be glad in the question period to tell you of this case in detail, or of many others. We have lots of them.

Featherbedding: Production is the secret of our ever-rising American standard of living. We have only what we produce. To be sure, we get practically all our advances in production from incentive-inspired and owner-provided technological improvements that lengthen men's arms.

But to the exact degree that we let "make believe" work limit the amount of production otherwise available from our national work force, just to that degree do the rest of us needlessly pay, feed, and encourage more nonproducers, thus lowering the standard of living otherwise available to all.

This is obviously unfair to the people who do work. Feather-bedding is morally bad, and economically feeble-minded.

On national emergency strikes, I will pass that unless you have questions or opinions on that.

The closed shop, this affects us, the General Electric Co., primarily in the course of what we buy, in the course added to our products after leaving our plants, and in the real wages represented by our employees' money wages.

Our experience has been very limited within our own plane. We believe the closed shop violates the right of free choice as to jobs, as to association, as to buying and selling goods and service.

We believe it makes for poor value in goods and services, arrests technological advances, and hinders a rising standard of living. We believe it even imperils the Government at the local level, and may at the national level.

Mass picketing and violence: General Electric is very proud of its comparatively peaceful union-relations history. However, even our employees have had some mass-picketing troubles which we will be glad to tell you about during the question period.

With respect to free speech, we believe the provisions of the present act are wise and should be retained. Prior to the present law an employer's right to free speech was severely curtailed by the Board interpretation of the former law.

Even though no threats of reprisal or promises of benefits were held out, an employer's expression of views with regard to the union was so often held to be a violation of the law that most employers were afraid to open their mouths at all, and, Mr. Chairman, I have been in Russia and Germany and Italy under the boys when they were going good.

The mutual responsibility of employers and unions, we think that this has been helped by four things:

1. Both sides are required to bargain in good faith.
2. Either side can file unfair labor practice charges with the NLRB in case of abuse.
3. Both can sue or be sued in Federal court for breach of contract obligations.
4. Both are now responsible under normal rules of agency for the acts of their agents.

We have not sued any of our unions we deal with, of course.

Political contributions: We think any restrictions on political contributions should apply equally to employers and unions. Employers and unions alike should be forbidden to use other than voluntary means to raise money for political purposes.

We think, of course, the functions of the advocate and judge should be continued separate in case of the Conciliation Service and in case of the Board.

We think the supervisors should be exempted from unions or that we should be exempted from having to deal with supervisors' unions, but that has been covered so fully during the morning period, I will await questions on that.

Finally, we think that it has been a good law. Despite any impressions that are in the fullest text, we are not here to defend each and every provision of the Taft-Hartley Act as such.

We believe an objective fresh appraisal of each of the ingredients of the present Labor-Management Relations Act will indicate that, although it is a good law and contains a great many important advances in the public interest which need to be retained, there is also need for two types of revision.

First of all, careful attention should be given to any specific instances in which the law is claimed to have operated unfairly against unions, employees, employers, or the public.

Secondly, careful attention should be given to those instances in which the present law needs to be strengthened, in order to prevent such abuses brought to light in this testimony, which are not adequately provided for under the present law.

The law should provide better protection against violent and coercive mass picketing and against monopolistic practices which can be effectuated through the use of secondary boycotts, closed shops, jurisdictional strikes, and the like.

I have already briefly referred to some of our own direct experiences in this latter area, and will be glad at your pleasure to discuss them further, sir.

THE CHAIRMAN. Senator Taft.

Senator TAFT. Mr. Boulware, I would like to ask some questions. Do you want me to ask, Mr. Boulware, specific questions?

Mr. WILSON. Yes, that is all right.

Senator TAFT. Mr. Boulware, you talked about the anti-Communist affidavit, and in your statement you made a reference there to the fact that there have been—

published reports, I believe, of such instances at Schenectady; Fort Wayne; Pittsfield; Dayton; Pittsburgh; Lima, Ohio; Fairmont, W. Va.; to mention only a very few.

Can you give us any specific cases in which the non-Communist affidavit has operated to exclude Communist domination of unions?

Mr. BOULWARE. I think the only case where that has actually come about as a direct thing is where the Atomic Energy Commission used the failure to sign the non-Communist affidavit as one of two principal occasions for instructing us not to deal, recognize as the bargaining agent, the United Electrical Workers at two plants in Schenectady.

But the thing—pardon me, sir.

Senator TAFT. Many of your employees are members of the United Electrical Workers?

Mr. BOULWARE. Yes, sir.

Senator TAFT. CIO, is it not?

Mr. BOULWARE. Yes, sir.

Senator TAFT. Most of them?

Mr. BOULWARE. No, not most of them, but most of them who belong to unions belong to the United Electrical Workers. We have some 44 contracts, I believe, and perhaps 40 percent of our employees, 35 to 40 percent of our employees, do belong to the United Electrical Workers.

Senator TAFT. That union, the international union, I believe, has not filed the affidavit; have they?

Mr. BOULWARE. No, sir.

Senator TAFT. Have any of the local unions cooperated and sought by unfair labor charges and otherwise—

Mr. BOULWARE. They have not sought to file any charges, but they have been undergoing, according to the papers, a great activity that has started up through the wonder of the members as to why their officers will not sign these affidavits. They have come to new elections and have elected people that they feel are less communistic or who are less tainted publicly with communism.

Senator TAFT. It has had an effect on the United Electric Workers in eliminating those who, I believe, have the reputation of being Communists or connected with communism.

Mr. BOULWARE. At the local levels; that is going on at the local levels in the locals, and in some cases have elected new presidents who they feel are less communistic, and it has taken place not only with our locals but we see accounts of it in the same union at other places where they are banning. For instance, here is a case in Pittsburgh where they are banning the district international elected representatives from the local headquarters building; I mean, the top national officers cannot come into the building. They are doing similar things at other places.

The national union has come in and seized the local headquarters and then they are in a public battle, as we read in the papers; we cannot take any part in it—at place after place across the country.

Senator TAFT. In other words, the anti-Communist battle is going on within the United Electrical Workers.

Mr. BOULWARE. By the published reports, and it looks like it is going on very widely, and it is apparently raised by this wonder of the workers at why their leaders do not sign up.

Senator TAFT. What about this case with respect to the Atomic Energy Commission? What did the Atomic Energy Commission do about this union?

Mr. BOULWARE. They ordered us. We have a contract with Atomic Energy Commission, in which they take care of the security provisions, and they ordered us to cease recognizing the United Electrical Workers at a new Knolls Laboratory which we are building for the Commission at Schenectady.

They then later ordered us to cease recognizing them at the old laboratory where we had lots of people already at work on atomic energy projects, and we carried out that instruction from the Atomic Energy Commission, despite the fact that we have a contract, of course, to deal with the UE, and the UE has used the Atomic Energy Commission and ourselves for a million dollars on that, but we felt, and our advice was——

Senator TAFT. Why did they order you to discontinue your——

Mr. BOULWARE. Bargaining? They gave two reasons. I can put the letter in evidence here. They gave two principal reasons, if you do not want me to read the whole letter, and I will be glad to do that.

Senator TAFT. I think that is not necessary. What were the reasons?

Mr. BOULWARE. The two reasons were, first of all, the failure to sign the anti-Communist affidavit, and, second, the weight of the evidence of association and various charges that had been made, they said. I am telling you this from memory; it goes back some time now.

Senator TAFT. And they went to the extent of discontinuing that, although it involved a breach of contract that you knew might subject you to damages.

Mr. BOULWARE. Yes.

Senator TAFT. Because it was placed on national security grounds?

Mr. BOULWARE. Yes, we thought the other contract was compelling.

My assistant says the power of the Government was paramount. Those are not my words. [Laughter.]

Senator TAFT. You have other instances of action within the union—you refer to one Pittsburgh action. Do you have any reports—

Mr. BOULWARE. We have one at Pittsfield—we have a case in Pittsburgh where the same thing is happening. I think I indicated that they are in an election problem and in a row between the local and the national.

Senator TAFT. Yes.

Mr. BOULWARE. Here is one at Fairmount, W. Va., and one at Lima, Ohio, here.

Senator TAFT. May I see those? I do not know whether we want to put them in the record or not, but I would like to have the opportunity of investigating these.

Mr. WILSON. Do you want this letter to go into the record?

Senator TAFT. This is the letter from the Atomic Energy Commission, and I will ask that it go into the record.

(A letter of September 27, 1948, and a letter of November 1, 1948, were submitted for the record and follow in turn:)

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., September 27, 1948.

CHARLES E. WILSON,
*President, General Electric Co.,
570 Lexington Avenue at 51st Street, New York 22, N. Y.*

DEAR MR. WILSON: Consistent with the national policy as stated in the Atomic Energy Act of 1946 and the Labor Management Relations Act, 1947, it is the settled policy of the Atomic Energy Commission that the atomic energy facilities be operated in a manner best calculated to assure that those who participate in the program are loyal to the United States. This includes those who, though themselves not employees of contractors, do exercise administrative, negotiating, and disciplinary authority over such employees of contractors as are members of union bargaining units. General Electric employees working on atomic energy projects, with access to restricted data are, as you know, all fully investigated by the Federal Bureau of Investigation with respect to character, association and loyalty, and such individuals have been subject to the usual security clearance by Commission representatives.

Over a period of time, consideration has been given by representatives of the Commission and representatives of the General Electric Co. as to whether there is such assurance of loyalty within that portion of the atomic energy program at Schenectady for which General Electric is the operating contractor. Your representatives have advised that some years ago the United Electrical, Radio and Machine Workers of America, CIO (UE) was designated through a National Labor Relations Board proceeding as the bargaining agent for the production and maintenance workers in the company's private plants in Schenectady. Your representatives have also advised that this recognition of UE as a bargaining agent extends to certain employees performing work at Government-owned, General Electric-operated atomic energy facilities in Schenectady.

"It is noted that UE officers have failed to comply with the section of the Labor Management Relations Act, 1947, which provides for filing of affidavits that they are not members of the Communist Party or affiliated with such party. In addition, information is available, much of it a matter of open public record, of alleged Communist affiliation or association of various officers of UE. It appears that some of these UE officers are in a position within this union whereby they exercise administrative, negotiating, or disciplinary authority over General Electric Co. employees engaged in atomic-energy work at Schenectady. The failure to file non-Communist affidavits and the information concerning alleged Communist affiliation of these officers of UE when taken together present a very serious question as to whether representation of atomic energy workers at Schenectady by a union in which such officers occupy important positions is

consistent with that full and unqualified adherence and loyalty to the interests of the United States that the security of the Nation and the policy of the Atomic Energy Act of 1946 require."

In the discussions with representatives of General Electric, the Commission has been advised that the company views its over-all contract with UE, covering plants all over the country and which continues until 1950, as precluding the company from refusing to recognize the UE as bargaining representative for any employees covered by such contract unless the Commission so directs pursuant to its authority under the Atomic Energy Act of 1946. This conclusion prevents the company from taking the necessary steps, on its own initiative, to improve this situation. While I am unable to follow the reasoning behind such a conclusion, we are compelled to accept it as the company's final position.

The Commission's policy, as you know, is that questions relating to a contractor's labor policy should be resolved and handled directly by the contractor. However, in view of the company's position respecting UE, as stated above, and of the obligation of the Commission in matters pertaining to national security, the Atomic Energy Commission as a first step toward improving the situation directs as follows: The General Electric Co. not recognize United Electrical, Radio and Machine Workers of America, CIO, at the new Knolls II Atomic Power Laboratory, Schenectady, N. Y. The Commission will communicate with you with respect to other steps that may need to be taken.

In this connection, the Commission wishes to reemphasize that this direction, on this particular set of facts, does not mean that there is Commission objection to recognition by General Electric of any organization of employees which has met or can meet AEC security requirements as to loyalty to the United States of those nonemployees who exercise administrative, negotiating, and disciplinary authority over bargaining units of atomic-energy workers. This is made clear by our letter to you, of this date, concerning labor organization at the Hanford, Wash., facilities of the Commission operated by you as the contractor.

Sincerely yours,

UNITED STATES ATOMIC ENERGY COMMISSION,
DAVID E. LILIENTHAL, *Chairman*.

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington, November 1, 1948.

MR. CHARLES E. WILSON,
*President, General Electric Co.,
570 Lexington Avenue at Fifty-first Street,
New York 22, N. Y.*

DEAR MR. WILSON: Under date of September 27, 1948, the Atomic Energy Commission directed that the General Electric Company not recognize the United Electrical, Radio and Machine Workers of America, CIO, (UE), as the bargaining representative of any persons to be employed by it at the new Knolls Atomic Power Laboratory, Schenectady, N. Y. This direction was based upon information concerning alleged Communist affiliation or association of various officers of UE. The positions occupied within UE by these officers are such that they exercise administrative, negotiating, or disciplinary authority within the Union over General Electric Company employees engaged at other atomic energy facilities at Schenectady where UE is the recognized bargaining agent.

This information when taken together with the failure of these officers to file non-Communist affidavits under the Labor Management Relations Act, led the Commission to conclude that there is a very serious question as to whether representation of atomic energy workers at Schenectady by a union in which such officers occupied important positions is consistent with that full and unqualified adherence and loyalty to the interests of the United States that the security of the Nation and the policy of the Atomic Energy Act of 1946 require.

Under dates of October 6 and 22, 1948, the Atomic Energy Commission wrote Mr. Albert J. Fitzgerald, general president of the UE, in connection with the Commission's direction to the General Electric Co. The Commission concluded, however, that unless this very serious question should be cleared up satisfactorily the Commission intended to take such further steps as may be necessary to assure that these officers do not exercise administrative, negotiating, or disciplinary authority over General Electric Co. employees engaged in atomic-energy work, at Schenectady. The Commission offered the officers of UE every opportunity to participate in a fuller exploration of this issue.

On October 26, 1948, Mr. Fitzgerald replied to the Commission's letters of October 6 and 22, 1948. From this reply it appears that the officers of UE do not intend to avail themselves of this proffered opportunity to participate in a fuller exploration of this question. In particular it appears that the officers do not intend to answer questions or submit facts concerning their loyalty and their associations with Communist Party organizations, as in our view they must do, in their capacity of officers of unions who have wide authority over atomic energy activity personnel.

Accordingly the Atomic Energy Commission now directs that General Electric Co. withdraw and withhold recognition from the United Electrical, Radio, and Machine Workers of America, CIO, in respect to any employees of General Electric Co. engaged on work at AEC-owned or AEC-leased installations in the Schenectady area or engaged on atomic work which is defined as classified by the Atomic Energy Commission and being performed by the General Electric Co.

A reappraisal of the situation will be made within a reasonable period of time after you have taken the necessary action to comply with this directive. You will thereafter be advised as to any further steps that may be necessary.

We wish to emphasize that this action, while made necessary by this refusal of these particular union officers to accept obligations as to loyalty investigations (which their own members engaged in classified atomic energy work have all accepted), is in nowise a reflection on the membership of this union, employees of your company, who have been investigated and cleared. Further, we take this opportunity again to make it clear that the Commission does not object to General Electric Co. extending recognition as bargaining agent for atomic-energy workers to any labor organization whose officers have met the requisite standards in respect to full and unqualified adherence and loyalty to the interests of the United States.

Sincerely yours,

UNITED STATES ATOMIC ENERGY COMMISSION,
DAVID E. LILIENTHAL, *Chairman*.

Senator TAFT. No. 2, jurisdictional strikes. Mr. Boulware, in the first place, has the Taft-Hartley Act operated to prevent jurisdictional strikes during the past two years?

Mr. BOULWARE. We feel it has, and, perhaps, even more than preventing them; it has worked to settle, helped settle them rather quickly.

We had a case at Schenectady, again in the new laboratory, where we were trying to get the building wired, and the telephones put in at the same time.

We ordered the contractor to put in the electrical wiring, and called up the telephone company and asked them to put in the telephones, and we immediately got into a jurisdictional problem. We discussed that for 3 months, I am sure, tried to—we were acting as the arbitrator, although we were the innocent bystander there between the two unions, and finally we had to tell them both they just had to go on and do their work. We could not get them to agree, and the telephone company came in to put in its wires, and the electrical union left; they said it was not a strike, there were 40 of them left—46 of them walked out from the job, the first day, leaving 20. By the next morning there were only 18 there, and then we reported that to the union, and told them we thought this was a strike, as they had been more or less intimating they would have, and they said, "Oh, no, this is not a strike," and said so in the newspapers.

We then reported immediately to the NLRB and stated our case in the newspapers, and the NLRB sent a representative up there to check it.

Senator TAFT. Did you file a complaint with the NLRB or simply informally take up the situation with them?

Mr. BOULWARE. We filed a complaint with the NLRB.

Senator TAFT. As an unfair labor practice under the Taft-Hartley law?

Mr. BOULWARE. That is right, and they sent a man up there to investigate. At the same time, a man from the union arrived and said, "We have got to fix this up, and this is not any strike at all," and, well, we said, that there is not anything to fix; this is independent action. We asked, "What have you got to do with it? You are not a party to this." But he said, "Oh, never mind, we have got to fix this up."

So, after the NLRB man checked it a little while, the union man wanted right away to deal with us, so about a day later, why, he decided to have all the people come back, and we then questioned him on whether he could have them come back, he had no control over them, they had gone out voluntarily. He assured us they would be back, and they were, and there was not anything—it was the sheer availability of the law there which took care of us, we think.

Senator TAFT. In other words, you think the settlement was reached and the strike stopped by the fact that there was a remedy provided by law, and that you had made some motion toward calling that remedy into effect, is that it?

Mr. BOULWARE. And they fully understood, we think, that what they were doing was illegal, and that we were willing under the law——

Mr. WILSON. Under the law.

Mr. BOULWARE. We were willing to talk about it.

Senator TAFT. I am interested to know what remedy most concerned them. There are two remedies. I think I am right: One is the suit for damages, the other is the temporary injunction to be sought by the National Labor Relations Board. Which of those remedies do you think was more effective, in the existence of the remedies, was more effective in bringing to a proper settlement that strike?

Mr. BOULWARE. Well, we do not like injunctions, of course. But what you need to keep a thing like that from being damaging to all concerned, not toward—we were not involved in this, because this was a public project, which we were doing for the Government—but the thing you need in a jurisdictional strike is prompt attention, because these are little groups of people always, usually in a single trade, who can stand at the crossroads and hold up a whole great big project.

Senator TAFT. You mean, that you think the mere existence of unfair labor practice which might be litigated before the Board for from 6 to 8, 12 months, was not the remedy that they were most concerned about, or what was it?

Mr. BOULWARE. Well, we think that whatever remedies there were under the law made them change their mind about this when they saw that we would go to the Board and seek whatever help we could get from them in enforcing whatever was the legal thing to do.

Usually, in these jurisdictional and secondary boycott cases, involved in this was a lurking right back of there a secondary boycott on the other people working on the building, of course, which had been discussed but not actually threatened. They do not quite do that now, and we think that it was the ability of the Board to seek the injunction and to get this prompt attention, prompt action, and perhaps to get the damages, if any were involved.

Senator TAFT. You do not really know—I mean you know there were legal remedies, but what they were, you do not have anything particularly to do with it.

Mr. BOULWARE. No.

Mr. WILSON. We have another case there just now, Mr. Boulware, a case at Schenectady, the Turbine Building, which might interest the committee, and that is along the same line, it seems to me.

Mr. BOULWARE. Well, we are there, Mr. Wilson, working out a voluntary settlement. We have worked out with everybody a way to avoid it. We have taken a new \$20,000,000 factory building and put a temporary wall through it so that we can have our CIO people working on one side and the A. F. of L. people working on the other side, doing substantially the same work, but this technically makes it two buildings, so that they will not contaminate each other.

Mr. WILSON. We hope the walls of Jericho will not come tumbling down.

Mr. BOULWARE. We hope they will remain upright.

Senator TAFT. On the question of secondary boycotts, you spoke of one, I think, in your direct testimony, regarding the Owens, Ky., plant. Just what were the facts in that case?

Mr. BOULWARE. Well, we think this is a typical true secondary boycott which was threatened several weeks ago at our plant at Owensboro, Ky., and as far as we know, this threat is still over our heads while these deliberations are going on in this room today.

It happened several weeks ago down at Owensboro, Ky., and I happened to be there over Friday night when it was going on, but did not get into it, and so far as we know this threat is still over our heads and it is still threatening.

The company found it necessary to contract for some electrical work to be done in order to complete some construction. As a matter of good practice we let the contract out to a local contractor.

At the time of letting out the contract we had no knowledge, of course, as to whether or not he used union or nonunion men, but he was known to do good work, and he was the lowest bidder.

Senator TAFT. What kind of contractor was he?

Mr. BOULWARE. He was an electrical contractor, and had proved that he did good work.

Senator TAFT. Put in electrical work in a factory?

Mr. WILSON. Wiring.

Senator TAFT. Wiring.

Mr. BOULWARE. On January 20, an IBEW representative—that is an A. F. of L. union—told the General Electric superintendent of building, that it had an unfair contractor.

Senator TAFT. I cannot hear you; speak up more clearly, please.

Mr. BOULWARE. On January 20, an IBEW representative told the General Electric Co. superintendent of building that it had an unfair contractor working on electrical installation, and that if it did not remove him there would be trouble.

General Electric told the IBEW that its contracts are let on a price basis, that it does not check the contractor to see whether union or nonunion labor is used.

General Electric pointed out that the real dispute was with the contractor and not with the company. Later that evening the IBEW

indicated that if the electrical contractor was not removed from the job, IBEW would picket the plant the next morning.

Senator TAFT. Were they working in that plant or were they somewhere else?

Mr. BOULWARE. Yes; they came into our plant to do construction work.

Senator TAFT. You mean on some other phase of the construction work under this contract or what?

Mr. BOULWARE. I am told at this point that this particular case was not working in this plant, although I was there, and I am sorry, and I understood that the men were working inside the plant.

However, the electrical contractor was doing work on our property there at Owensboro, at our Owensboro plant, so that the people had to come in to work, and if we did not give in to the IBEW and throw the other contractor off and let a union contractor in, why, they would picket our plant and see that nobody got on the grounds.

Mr. WILSON. How was it settled?

Mr. BOULWARE. It is still pending. They decided not to put the pickets around there, but they are still threatening and trying to have us go along.

Senator TAFT. You say they did not picket it?

Was the existence of the law having any influence on their not picketing?

Mr. BOULWARE. Yes; we told them we thought they were running right into an illegal jurisdictional dispute, and always in these conversations there comes up the fact that we would be sorry, by which we mean that we will go into other secondary troubles with other people working on the same construction job.

Senator TAFT. Have you any other cases? Is there any other case of secondary boycott, any one that you know about that you think would be of interest to the committee?

Mr. BOULWARE. Yes, we have a case at our San Diego service shop. We had that shop—for instance, these common small cases; there are 12, I think, employees there. We were put on the so-called unfair list by the IBEW because our employees were not represented by their union.

In February 1947 this situation came to a head. Our customers were advised by the IBEW that if any motors or any other equipment were sent to our shop for repair they would refuse to install them when they were returned to the customers' premises. Many of our customers deserted us, and we have steadily lost business since then.

In 1948 the IBEW won a representation election and immediately demanded a union shop. A security election was held, as required by law, but the union failed to obtain a majority vote approving union security. Since the time the union has apparently dropped the entire matter of bargaining, and our employees are working without a contract. Although our employees are IBEW members the shop is still on the unfair list.

The union has such a strong domination over the San Diego business community that we have never been able to make any headway against their boycott, and accordingly we are planning to close the service shop as of April 1, 1949.

Senator TAFT. In other words, as I get the facts, the IBEW is boycotting your work, the work that goes out to your plant, in various installation places throughout the city of San Diego?

Mr. BOULWARE. That is correct.

Senator TAFT. Is that correct?

Mr. BOULWARE. That is right.

Senator TAFT. And the reason that they are doing that is because you will not agree to a union shop?

Mr. BOULWARE. Despite the fact that—

Senator TAFT. When, after the men have voted not to—failed to have a majority in favor of a union shop?

Mr. BOULWARE. That is right.

Senator TAFT. Do they claim any discrimination on your part against IBEW members?

Mr. BOULWARE. No.

Senator TAFT. So the boycott is used solely to force you to sign a union-shop agreement with the IBEW; is that correct?

Mr. BOULWARE. That is right.

Senator TAFT. Can you tell us about the conditions in New York City Local No. 3 in New York City?

Mr. BOULWARE. Well, General Electric cannot sell certain types of electrical goods in New York unless these products are completely and uselessly rewired by the local union.

A typical instance is that of an electrical supplier, not General Electric, who was refused the contract on a bid of \$56,000 on a low-priced housing project, because his product did not bear the local union label, despite its having been made in a union shop elsewhere.

The order went to a local union manufacturer at a price of \$110,000, just \$54,000 higher; or just double, of course.

This situation continues to exist in New York today.

For example, when General Electric manufactures control equipment for use in the New York area, it is assembled and tested by CIO union members in Schenectady or Philadelphia or Pittsfield, and it is then ready for use and could be shipped in that form.

However, in certain cases, General Electric has been forced to disassemble this equipment, ship the components into New York, all tagged for the guidance of the less-experienced local union men there, and then have it reassembled by this local union, more than double the original assembly work which has again been paid for and is pure waste. We constantly have similar problems.

Senator TAFT. Have you taken any action whatever to correct, or have any of the manufacturers taken any action under the law to correct the situation in New York City?

Mr. BOULWARE. They did, before I came with the company, Senator.

Senator TAFT. That was before the Taft-Hartley law.

Mr. BOULWARE. And got into trouble; yes. But our trouble in New York City is the dominance of the union over the customers such that they do not dare let us, so we go right on and pay it, as in the case of Sherman Creek, where we paid \$700 for piping work that we had done on a turbine up in Schenectady before shipping it, and when it got out to New York to be installed, why, they claimed that this piping work was the kind they had to do locally, and that we must either let them take it apart and recut the pipe and reassemble

it or we would have to pay them the amount of that pay roll that would have gone into that work, which was seven-hundred-and-some-odd dollars, and after a great deal of discussion, that was paid in order to keep from the delay at a time when the power was awfully short in New York and where the customer did not want to get into a lot of trouble. The customer paid for it.

Senator TAFT. Well, does that mean if we want to accomplish anything against this kind of secondary boycott, we have to pass a more strenuous law than we have today on the subject?

Mr. BOULWARE. We feel that the present law will do pretty well if given time for the public to become aware of these practices and businessmen to get to the point where they dare speak up and let people know what is going on.

Senator TAFT. Have you been to the National Labor Relations Board with any complaint against the practices of Local No. 3?

Mr. BOULWARE. No; we have not in this case, because our customers—this is something that happens after the material leaves our shop, Senator.

Mr. WILSON. The electrical contractor, as a rule, Mr. Senator, is really involved. He buys our stuff and then it gets to New York and he finds out he cannot install it as we supplied it, and he has got to rewire it to their satisfaction, so he is the one that is involved more than we are.

Senator TAFT. Mr. Boulware, on the question of the closed shop you make a general statement against it, or Mr. Wilson does. Do you have any specific instances of cases where you think it has had a bad effect? Do you have specific testimony regarding the result in any case?

Mr. BOULWARE. It is simply the rallying point for all this power that is exhibited in the jurisdictional strike and the secondary boycott and in the featherbedding cases, and the power springs, we think, out of the closed shop. We think the closed shop starts with the consideration of the employees, it goes on fast into the fields of power and restriction of business, and I have an example of a case right here in Washington.

During this past year the Medical Clinic of Drs. Grover, Christie and Merritt, who are radiologists here in town, purchased X-ray equipment for installation in their new additional quarters in the Columbia Medical Building Annex, Washington, D. C.

This equipment was purchased by them for a price which included installation. We also have to do that because the stuff is dangerous and we have to have specialists to do it. Other building renovations were being made at the time installation of the X-ray equipment was going on, and the union threatened to boycott and strike the entire job unless permitted to do the work of also installing the X-ray equipment. Because of pressure exerted on the company by the customer, to avoid a serious delay in installation, and a boycott of the entire renovation job and their willingness to assume the extra cost, the job was done by the union.

This procedure cost the purchasers approximately \$4,000 more than they had contracted to pay. It was agreed in the purchase contract that in the event the manufacturer's personnel was not allowed to make the installation, the purchasers would defray the costs of hiring outside labor.

Our people always have to stay there and see that it is done right, and it does not lessen our cost any.

Senator TAFT. You said something about restrictive practices of certain unions which have grown to an extent where they imperil free government at the local level. What do you mean by that?

Mr. BOULWARE. Well, we think the government which we spoke of here yesterday, or government over local government—

Senator TAFT. I mean have you got a specific instance?

Mr. WILSON. Well, we had a Newark strike. We had a truck strike in New York recently and it was pictured in one of the newspapers. One of our trucks started in the tunnel and they were told to turn around and go home, they were not allowing any trucks in there. This was not strikebreaking. This was just a normal delivery from an electric bulb plant into the warehouses from which distribution is made.

Senator TAFT. What is the point?

Mr. BOULWARE. Well, the point is that the union had the power to turn our trucks around and make them go back through fear that violence would happen to the drivers if they did not turn around.

Senator TAFT. What was the objection; I mean was there objection to your drivers? I do not understand what the strike was about.

Mr. BOULWARE. Well, they were just closing up New York, not allowing trucks in there. It was a truck strike and our truckers did not happen to belong to their union. They belonged to another union, but they just were not allowing any trucks in there. They just were not striking against the particular employer.

Senator TAFT. What do you mean by "it imperils free government at the local level"?

Mr. WILSON. Well, there were police there. The police were standing there watching it and not stopping it when our trucks were turned around by threats, and sent back home, and I think this case over in Newark where the union decided they could not build a \$7,000,000 freight terminal is a point.

The city of Newark decided to build a \$7,000,000 freight terminal and the union here decided that they should not, and it was so settled here on February 10 or 12.

Senator TAFT. Why did the union object to their building a freight terminal?

Mr. WILSON. Because it would limit the work for truck drivers in New York City or in Jersey. Here is a copy of it, the report of it, and it says they would prohibit truckers from transferring shipments at those points. Here is a newspaper account, if you are interested in it, sir.

Senator TAFT. Well, that, in effect, is an effort to interfere with the general improvement and reduction in expense in trucking by those who think their business would be injured by that. Is that the point?

Mr. WILSON. Yes; but it is public authority here.

Senator TAFT. So they have been able to prevail on the city not to proceed with that improvement?

Mr. WILSON. That is right.

Senator TAFT. That is all, Mr. Chairman.

Mr. BOULWARE. That is right.

Senator TAFT. That is all, Mr. Chairman.

Mr. Chairman, there are here a number of newspaper reports submitted regarding the effect in various instances of the anti-Communist affidavit. I ask that they be incorporated in the record for what they are worth. They are only newspaper reports, of course, but I think they would give illustration of the kind of things that would be accomplished.

The CHAIRMAN. Without objection, they will be so incorporated. (The documents referred to are as follows:)

[From the Pittsburgh Press, February 13, 1949]

UE RIGHT WING BATTLES ON THREE NEW FRONTS—BOARD SEEKING MEMBERS' APPROVAL

Victorious right-wing forces at local 601, CIO United Electrical Workers, have opened up in earnest against the left-wing faction they humbled in the union election last December.

The 16,500-member Westinghouse Electric Corp. union will meet today at 2 p. m. at East Pittsburgh High School to thrash out the new issues.

Elsewhere on the UE front a president of another right-wing local unleashed a terrific blast at the district UE leadership.

MEMBERS ASKED TO APPROVE

Today's meeting at East Pittsburgh will determine whether executive board actions taken on Friday will stand. They need membership ratification before they can be put into effect.

The issues:

1. The banning of district and International UE representatives from local 601's headquarters building.
2. The censure of the trial of Joseph Cardinal Mindszenty and of the conduct of top American Communists at their New York trial.
3. The ratification of important committee chairmen elected by the board for the coming year.

On Friday the executive board voted, 16 to 4, to place the union headquarters "off limits" for district and International UE pay-rollees. They can come in, according to the board ruling, only when sent for.

SHOULD DO THEIR JOB

Said local 601 Recording Secretary Stanley Glass:

"The representatives should be out somewhere organizing the unorganized, not fiddling around here where we already have an organization.

"They have a great habit of coming around the union where they have lost control and beating people over the head. I think we should send the International a bill for office space and telephone calls."

[The "Progressive" faction at local 601 supports the policies of the district and international leadership. The Progressives lost the last election and control of the union to the anti-Communist UE Rank and File Group in December.]

The right wing, which dominates the executive board, rammed through a resolution condemning Hungarian Communists for their treatment of Cardinal Mindszenty.

FITZPATRICK LEADS OPPOSITION

But not before a bitter debate in which the opposition was led by Thomas J. Fitzpatrick, former president who was beaten last December.

According to those present, Mr. Fitzpatrick denounced Pope Pius as a "warmonger" and accused him and Cardinal Spellman, of New York, of trying to start another war.

The board's resolution hit the Hungarian Communists for their attack on religious freedom and sharply criticized the stalling tactics of American Communist leaders in their trial at New York as a mockery of American justice.

RANK AND FILE'S CHOICES

The Rank and File Group tomorrow will seek ratification of the following to head important committees: James T. Fitzpatrick, Jack Amend, Robert Kerns, Frank Heckinstaller; Daniel Jones, Alex Simpson, Robert Dunsavage, Buck McGill, Blair Seese, and Rita Gorman. The executive board elected them yesterday.

The Rank and File want Charles Copeland, Michael Fitzpatrick, and Bucky Stotlemeyer to serve on the national Westinghouse negotiating committee.

The Progressives' candidates are Frank Panzino, Campbell Beveridge, Eddie Lehan, Ray Griffiths, James Bolton, Cubby Angelo, Nick Jurich, Ed Lapevecie, Ed Miller, and Mary Blitskan.

They chose Tom Fitzpatrick, Frank Panzino, and Herbert Sniderman as their hopes for the national negotiating committee.

LONEY UNDER FIRE

Another blast at the district leadership came from D. F. Dornetto, president of local 613, Allis-Chalmers Manufacturing Co. In a bitterly worded letter to Stanley L. Loney, president of district 6, Mr. Dornetto ripped at Mr. Loney's organization.

"Our members feel," Mr. Dornetto said, "that because they have a desire to better themselves they strongly resent being called 'bootlickers' by a bunch of crackpots who are willing to try to force the government of a foreign country on us."

The letter pointed out that the UE had spent nearly \$1,000,000 on organization in 1948, "for a net result of a loss of 30,000 employees and 35 shops."

"We don't blame you for trying to keep those gravy jobs," said Mr. Dornetto, "but do remind you that you are supposed to be organizers, not union members, and also employees of UE members, not Russia, although on this latter we have our doubts. Some day . . . the members will get wise to you and you will enjoy the same fate of all the other dictators in history."

[From the Pittsburgh Press, December 28, 1948]

FITZPATRICK CONCEDES—ANTI-COMMIES WIN SMASHING VICTORY IN UE—BIGGEST VOTE OUSTS LOCAL 601 OFFICERS

(By William Jacobs)

Anti-Communist forces at local 601, CIO United Electrical, Radio, and Machine Workers, have won a smashing victory over Thomas J. Fitzpatrick and his "Progressive" followers, final election totals showed today.

James McTiernan, election committee chairman, announced the final tabulation, showing that the UE Rank and File Group candidate, Philip Conahan, defeated Mr. Fitzpatrick, present president, by more than 3,100 votes.

Mr. Fitzpatrick late yesterday conceded the defeat of himself and his entire slate, offered congratulations to the winners, and attacked "outside" forces which he claimed interfered in the election.

The final tabulation of the approximately 13,900 votes cast at Westinghouse—the largest number ever cast in a local 601 election—showed:

President:		Treasurer:	
Philip Conahan	8,324	Al Pefferman	8,594
Thomas J. Fitzpatrick	5,215	Byron Byers	4,325
Vice president:		Business agent:	
Patrick O'Connor	9,004	Charles Copeland	7,901
Campbell Beveridge	4,174	William Harper	5,252
Financial secretary:		Trustee:	
Eugene Rath	8,092	Gregory Irving	7,880
Edward Lehan	4,878	Ina Mae Adams	4,519
Recording secretary:		Sergeant at arms:	
Stanley Glass	8,198	Jack Owens	7,707
Mary Blitskan	4,791	Charles Riley	5,346

Thus, all candidates of the UE rank and file group, who had campaigned against alleged Communist interference in the affairs of the UE, at all levels, were swept into office in their most important victory.

BIG VOTE CREDITED

They attributed their triumph to the record-smashing vote. The big Westinghouse Electric Corp. union has about 16,500 members. They also predicted a clean sweep, or nearly so, in the races for the division stewards' positions. These ballots have yet to be tallied.

It was the second important defeat in local CIO circles for Mr. Fitzpatrick this year. Earlier, Lewellyn Johns, a staff representative of district 17, United Steelworkers, opposed him as a candidate for treasurer of the Steel City Industrial Union Council.

When it became apparent that Mr. Johns would not withdraw his candidacy Mr. Fitzpatrick quit the race and lost his job as treasurer.

UE rank and file group supporters pointed to their large margins of victory as evidence that the sentiment in the shop had been with them all along, but that low votes and disunity among the right wing had cut into their strength.

O'CONNOR HEADS SLATE

Their slate was led by Patrick O'Connor, who was reelected vice president. With a total vote of more than 9,000, he beat his opponent, Campbell Beveridge, by 4,830 votes.

Other rank and file margins of victory were: Mr. Pefferman, 4,269; Mr. Glass, 3,406; Mr. Irving, 3,361; Mr. Rath, 3,214; Mr. Conahan, 3,109; Mr. Copeland, 2,649; and Mr. Owens, 2,361.

Mr. Fitzpatrick, in his statement conceding victory to Mr. Conahan, predicted that the progressives would win a number of executive board seats through victories among the division stewards.

He expressed a keen resentment and bitterness against the unprecedented efforts of forces outside the UE to influence the election.

NEWSPAPER BLAMED

He said that "a leading Pittsburgh newspaper" was "one of the worst offenders."

[During the campaign, the progressives have issued many statements against the Pittsburgh Press, which has always strongly advocated that the membership take an active interest in its own affairs.]

Mr. Fitzpatrick said nothing, however, about his resentment, if any, of the efforts of the Communist Daily Worker to elect him and his ticket.

He also claimed that "pressure was applied to the congregations of several churches" to vote for rank and file candidates.

"Such interference must stop," he said. "The membership will become increasingly resentful of this outside interference in the affairs of the local."

PROMISES TO FIGHT ACTU

Mr. Fitzpatrick and the progressives guaranteed an "unremitting fight" against "all persons who would allow the local to become the tool of any group such as the ACTU."

This was a reference to the Association of Catholic Trade Unionists, an organization which has been active in the fight against Communist infiltration into the labor movement.

Mr. Fitzpatrick pledged the incoming administration, which will take office next month "full cooperation and complete support of the progressives for the positive program of benefits for the members that they ran on their platform."

Mr. Fitzpatrick still holds the job as vice president of the powerful district council 6 of the UE. He was elected to this post earlier this year after he had resigned to make his successful race for the presidency of local 601 last December, when he unseated Mr. Conahan.

[From the Pittsburgh Press, February 14, 1949]

LOCAL 638 BOLTS UE TO JOIN AUTO WORKERS—ACTION CLIMAXES ANTI-RED BATTLE

District 6 Council, CIO, United Electrical Workers, could report to international headquarters today that "one of our locals is missing."

It is local 638, of E. L. Wiegand Co.

The 1,000-member union seceded from the UE yesterday by a membership vote of 350 to 0 at a meeting at Homewood branch of Carnegie Library. They voted to join the CIO United Auto Workers.

The action climaxes a long battle between district leadership of the left-wing UE and Thomas Nolan, staunch anti-Communist president of local 638.

It brought an immediate blast from Stanley L. Loney, present of UE district 6, and a promise from another anti-Communist UE leader that his union would remain in the organization to continue the fight.

EXPELLED FROM UE

Mr. Nolan had been expelled from UE membership because of his activities against district and international leadership. Specifically, he was canned because he took part in a near riot last year at the Fort Pitt Hotel in the presence of international UE officers.

He also had been charged with strikebreaking in the strike against the Mine Safety Appliance Co. last year. Specifically, he had slugged a picket from another union who called him a "company stooge."

Mr. Nolan said he expected to receive a charter from the UAW tomorrow. When he does, it will make local 638 the first UAW local of any size in the Pittsburgh district. It is also the first to bolt the UE.

HASTENED BY WARNINGS

Mr. Nolan said the move was hastened by continued warnings from district headquarters that the union would have to remove him as president, in compliance with the district's expulsion order, "or else." He said he expected that leaders would soon establish an administratorship over local 638 affairs.

"We have been paying them \$600 per month," Mr. Nolan said, "and they have been using the money against us. Now we will keep the money and fight them."

He explained that the present contract between the union and the company did not mention the UE. He predicted that the firm would recognize and bargain with local 638 under its new affiliation.

UAW MEMBERSHIP CARDS

Mr. Nolan said all members of the union will have signed UAW membership cards by the end of today.

Said John M. Duffy, vice president of local 613, Allis-Chalmers Manufacturing Co. and district leader of the anti-Communist forces:

"Mr. Nolan and local 638 were forced to take the action they did. It is not going to be a trend. Local 613 will stay in the UE. We see victory in our fight in this district within the next 6 months."

HE WAS EXPELLED TOO

Mr. Duffy was expelled from membership in the UE along with Mr. Nolan. Local 613 refuses to recognize the expulsion.

Mr. Loney, speaking for the district, said the move was "no surprise" to anyone who knew Mr. Nolan. He said local 638 had been under suspension because of "the undemocratic and unconstitutional actions taken by its officers."

He said Mr. Nolan was "guided, advised, and controlled by the authoritarian Association of Catholic Trade Unionists." Mr. Nolan, said Mr. Loney, had resorted to "antiunion cannibalism * * * repudiated by all honest segments of the American labor movement because it contains the seeds of destruction of all unions."

COMPANY BENEFITS, HE SAYS

Mr. Loney said the company would benefit most from the action. He accused Mr. Nolan and the company of forcing "speed-ups" on the employees which, he said, "resulted in hundreds of lay-offs."

He said that Mr. Nolan had barred UE representatives from local negotiations and that the union could no longer take any responsibility for protecting the employees.

[From the Pittsburgh Post-Gazette, February 14, 1949]

LEFTISTS IN UE HANDED DOUBLE SET-BACK BY FOES—LOCAL 638 VOTES TO JOIN UAW AS WESTINGHOUSE ANTI-REDS WIN CHAIRMANSHIPS OF ALL COMMITTEES

(By Jack Weisgerber, Post-Gazette staff writer)

Anti-Communists in the CIO United Electrical Workers Union dealt left-wingers a severe double blow Sunday in actions involving nearly 18,000 Pittsburgh district workers.

The moves were by:

Local 638—The 1,000 E. L. Wiegand Electric Co. employees voted to withdraw their local from the CIO United Electrical, Radio, and Machine Workers and place it in the CIO United Auto Workers.

Local 601—Right-wingers in control of the big east Pittsburgh plant local of Westinghouse Electric Corp. swept anti-Communists into every committee chairmanship in the 16,500-member unit.

CONDEMN HUNGARIANS

During a stormy meeting of 800 members in East Pittsburgh High School auditorium, rank-and-filers defied stubborn left-wing opposition to pass a resolution condemning the Hungarian Communist-inspired trial of Josef Cardinal Mindszenty.

The resolution, passed by a roaring voice vote, called the trial infamous. Simultaneously, the electrical workers blasted American Communist Party members for making a "mockery of justice" at the New York treason trial of the party's top 12 leaders.

The action of both locals was a stern rebuke to Red-tinged leadership in district council 6, a group representing nearly 38,000 UE members in the western Pennsylvania district.

OUTCOME OF FEUD

Secession of local 638, led by President Tom Nolan, culminates a bitter feud between left-wingers and the local officers.

Last fall district council 6 expelled Nolan from the UE on a charge of "dual unionism." The council has denounced him as a strikebreaker and a "company man."

But 638's membership refused to recognize Nolan's expulsion. He continued to lead the local, despite being barred from all district 6 and international UE proceedings.

The secession of 638 broke with a jolt to Pittsburgh labor leaders.

FIRST IN THIS AREA

It is the first case in the district where a UE local has moved en masse to the rival CIO Auto Workers. In other sections of the Nation, the Auto Workers have been raiding UE locals for months while CIO hierarchy looked the other way.

Nolan said his union had to make the jump or find that district 6 would appoint a left-wing administrator to head the strongly right-wing local.

Stanley L. Loney, leftist president of district council 6, said 638's move was illegal. He said he warned 638 members by pamphlet last week that "Nolan, expelled UE member and strike-breaker, might resort to such an effort to disaffiliate in order to preserve his control in the shop."

VOTE IS UNANIMOUS

Members of 638 voted 359 to 0 to return the UE seal, charter, and international property. New membership cards and a charter in the UAW were prepared even before the vote was taken during a meeting in the Homewood branch of Carnegie Library.

Nolan said 638 would not lose its contract with the Wiegand Co. He said the local's contract was changed last July to read out any connections with the UE.

Normally, companies sign union contracts with the international organization and the local union acts as an agent of the international.

Mr. Loney maintained that such was the case with 638. Nolan retorted that every move made by his local had been checked by legal experts and that the local's contract remained intact.

CONTINUES AS PRESIDENT

Nolan continues as president; John M. O'Hagan as vice president; Bennie H. Buba as financial secretary, and Clyde E. Owens as recording secretary. A formal election will be held later, Nolan said.

Whereas the 638 maneuver was planned and executed smoothly, right-wingers in local 601 had to battle their way in establishing the three different set-backs to left-wingers.

By approving minutes of an executive board meeting, the local moved to bar all international and district 6 UE organizers from the local's headquarters. They may enter the local's headquarters only "when summoned."

BOOS AND JEERS

The 3-hour meeting was marked with choruses of boos and jeers each time left-wingers attempted to speak. The members shouted down objections to the Mindszenty resolution in much the same fashion as left-wingers once used in the local.

By placing right-wingers as heads of all the committees, the rank and file cemented the drubbing it handed left-wing progressives during the annual elections last December.

Two years ago, right-wingers won the local's major offices, but met with numerous set-backs during their administration when left-wing committee chairmen balked their every move.

The new chairmen are: Generator (the local's newspaper), James (Tommy) Fitzpatrick; legislative, Jack Amend; constitution, Frank Heckinstaller; social, Daniel Jones and James Bolton; veterans, Robert Dunsavage; sports, Buck McGill; sick and accident, Blair Seese, and women's Rita Gorman.

[From the Pittsburgh Press, December 13, 1948]

UNION ORDERS LOYALTY OATHS

FAIRMONT, W. VA., December 13 (special).—All officers of local 627, CIO United Electrical, Radio, and Machine Workers here have been instructed by the membership to sign loyalty oaths.

The action came last night at a membership meeting at which new right-wing officers were installed to serve for the coming year.

Representatives of the district and international union headquarters opposed the move at last night's meeting, it was reported.

The membership also invited any defeated left-wing candidates or former officers to sign the statements, which are not to be confused with the non-Communist affidavits required by the Taft-Hartley law, as evidence of "good faith."

[From the Lima News, February 2, 1949]

ANTI-ISM STAND TAKEN BY LIMA UEW PRESIDENT—NEW HEAD OF LOCAL 724 ANNOUNCES POLICY OF OPPOSITION TO LEFTIST UNION GROUPS

A sweeping clean-up and heads-up policy is advocated by Ladd Bollinger, Route 4, newly elected president of local 724, United Electrical Workers, CIO.

Bollinger, who will take over the union presidency Sunday, said Wednesday he is fully in accord with national efforts of the right-wing to clean out fascist and socialistic activities that are subversively undermining the strength of labor unions.

Other top officers of local 724, to be installed Sunday afternoon in the union hall, 111 West Elm Street, include John Millady, vice president; Emery Kent, recording secretary; and Ferrolle Hartoone, financial secretary. They were elected January 6.

The new president, in a statement released Wednesday, announced his aims and the ambitions of his union for 1949.

"In the first place," Bollinger declared, "I am an American and as such am definitely opposed to communism, fascism, and socialism. I will personally sign a statement to that effect and recommend that all officers and members requested do likewise.

"I am going to be able to hold my head up to my neighbors, and I do not want any slur of Red to blot my term of office.

"Second, I prescribe that we follow the trend of our neighbor locals in renouncing the left faction.

"Third, I want personally to know the problems confronting the membership and hope to work toward a solution. Fourth, I recommend a strong financial policy."

Interested observers point out that Bollinger was elected on such campaign promises, and there will be a definite movement to supplant internationalism with strong local policies.

Since this local is comprised of Westinghouse workers it also is believed that earlier movements of Mansfield and other Westinghouse plants are to be studied and followed here.

Before entering the labor picture, Bollinger was identified with local and area sports. He has been prominent in football, basketball, softball, and baseball.

[From the Miami Sunday News, February 13, 1949]

TRUCKER UNION TO SIFT NEWARK TERMINAL FIGHT

(By Jack Turcott, staff correspondent of the News)

MIAMI, February 12.—A complaint by the Port of New York Authority that construction of its \$7,000,000 Newark freight terminal was discontinued because of opposition from a New Jersey union will be aired here Monday before the 11-man executive board of the AFL Teamsters Union.

Theodore W. Kheel, former director of New York City's Division of Labor Relations, now special labor counsel for the authority, and Walter P. Hedden, the authority's director of port development, will tell the board that the Newark depot and an unfinished \$8,000,000 in lower Manhattan will speed up truck deliveries and ultimately provide more employment for teamsters throughout the metropolitan area.

PURCHASES CANCELED

Austin J. Tobin, executive director, announced in December that it was canceling purchases of mechanical equipment for the Newark terminal because terms of a union contract there would hamper terminal operations.

A pact made last fall by local 478 of the teamsters union with over-the-road trucking companies prohibits the trucker from transferring shipments for Essex County delivery to any local cartage firm except those with whom they have been doing business in the past.

Freezing local delivery jobs, Kheel said today, would wipe out about half the value of the Newark terminal. The huge depot is being built, he added, to enable big trailer trucks to unload speedily on one side of 1,000-foot platform, from where their cargoes would be moved by conveyor belts to the other side of the terminal for loading from freight bays into local cartage trucks. The port authority planned to award freight-moving contracts by public bidding.

MORE WORK CLAIMED

An authority spokesman said the proposed terminal operations would cut trucking costs and make more work for teamsters by providing a constantly increasing flow of over-the-road shipping into the metropolitan area.

The Manhattan Terminal now being built near the Holland tunnel will occupy four square blocks bounded by Greenwich, Washington, Houston, and Spring Streets. Refusal by any of the 29 New York locals of the teamsters union to let their 125,000 members work in the Manhattan terminal would make the project worthless.

Senator DONNELL. I have only one question.

Mr. Wilson, I would like to have you answer this if you will.

You say on page 14 of your statement, referring to mass picketing and violence:

Since the Federal Government has aided the growth of these unions to powerful giant size, and since local police are proving less and less able to cope with the situations described, the Federal law should provide employees, management, and the public with relief from such violence.

How do you propose that the Federal law should make such provision?

Mr. WILSON. This was the part of Mr. Boulware's testimony.

Senator DONNELL. I would just like, Mr. Wilson, to have you give us your own thought on that, please, sir. That is in your testimony, is it not?

Mr. WILSON. Yes. This was part of it that I turned over to Mr. Boulware. This has to do with this case that Senator Taft was just speaking about.

Well, it seems very obvious to me that when a union gets the power that is it very obvious that this union has, that they can have their flying squads of cars on the road, and whether the trucks, for example, of our company or any other company happened to be driven by their men or not, or some other union's men, can prevent those trucks from crossing the bridge or from coming through public tunnels, and the local government has no longer the power to do anything about it, as the government on the New Jersey side of the bridge or the tunnel very obviously did not have power because their police were there but they could not cope with the large numbers of union men who had gathered there and were turning the trucks back, then it seems to me that some power is needed to permit the orderly conduct of business.

Senator DONNELL. What would you advocate that the Federal Government do? What kind of law would you advocate be passed by the Congress of the United States to cover that situation—injunction or criminal procedure, or what?

Mr. WILSON. Well, I am not a specialist in what kind of law it takes to do it. But I leave it to you experts.

Senator DONNELL. Something should be done?

Mr. WILSON. But a law that would prevent that sort of thing, put some teeth in it that no group of society can get as far out of hand as to shut down all operations in a city like New York to the extent that they were shut down.

Senator DONNELL. You think something should be done by Congress, and you would leave it up to Congress to determine the remedy?

Mr. WILSON. It was obvious the local government could not do anything about it, sir.

Senator DONNELL. Now in that connection did you know Mr. Carey, the president of Yale & Towne Manufacturing Co.?

Mr. WILSON. Yes; I did.

Senator DONNELL. He died a while back. He was drowned accidentally, I believe.

Mr. WILSON. That is right.

Senator DONNELL. Mr. Carey testified before our committee 2 or 3 years ago of incidents that took place up at the Yale & Towne Manufacturing Co., where he, the president of the company, was denied access to his own plant, the one of which he was president. Do you remember that situation?

Mr. WILSON. Oh, yes; very well.

Senator DONNELL. Do you think that some relief should be provided if not by the local government of the State, by the Federal Government through appropriate legislation, to cover such cases as that?

Mr. WILSON. I think there ought to be relief. We went through comparatively the same thing when for the first time almost—well, in certainly 25 years we had a strike at a large plant. Even our research people, our engineers, and all who were not in the bargaining unit at all, had nothing to do with it, were all denied access to our plants.

Senator DONNELL. Well, do you think that the labor unions should have the right to stand outside of a plant and, by picketing, mass picketing or other means of that type, prevent the officers of the company who own the plant from going into the plant?

Mr. WILSON. I do not think they should have the right to keep out other than the people who are of their own union or who, in case strike breakers were brought in to take their places, to keep them out. They certainly, in my judgment, have no right to keep officers of the company out or, for example, people engaged in operations that are not covered by the contract entirely outside the bargaining unit in which the strikers are involved.

Senator DONNELL. Well, now, if the experience has shown thus far that local laws are not adequate to take care of a situation of that kind, and enable the officers of the companies to get into the plant, do you advocate the enactment of Federal law in cases involving interstate commerce?

Mr. WILSON. That sort of thing, that kind of mass picketing should be prevented whether it takes Federal law to do it or anything else. It is obvious that local law cannot cope with it, Mr. Senator, because in the city where this happened—and that caused the worst upset—we employ over 30,000 of the people out of the city of some 50,000—60,000 people.

Have I got the number right, 60,000 in Schenectady? I beg your pardon. We employ over 30,000 people out of a city of 100,000 people.

Now a city of that size has not a police department big enough to cope with the very large squads of pickets that prevented those who wanted access to have such access.

Senator DONNELL. Thank you, Mr. Wilson.

The CHAIRMAN. Senator Smith.

Senator SMITH. I have no questions.

The CHAIRMAN. Senator Murray.

Senator MURRAY. Mr. Boulware, in the early part of your statement you said that you favor the requirement of filing non-Communist affidavit by the workers.

Mr. BOULWARE. Yes, and management, too.

Senator MURRAY. You believe it should be applied to managers, also?

Mr. BOULWARE. Oh, yes.

Senator MURRAY. Would it require different language in covering the employers? Would you advocate that they should be required to swear that they did not belong to a Fascist organization or they were engaged or affiliated with any kind of an organization engaged in undermining our American system of free enterprise?

Mr. BOULWARE. Anything that was suspected they were doing, include it in the requirement.

Senator MURRAY. Well, then, would you feel that they should also take an affidavit or take an oath that they would be opposed to this gradual concentration of ownership in America which is leading us into a totalitarian system?

Mr. BOULWARE. I have no opinion about that. I do not think that is applicable.

Senator MURRAY. Do you think we should continue this form of collectivism?

Mr. BOULWARE. Not unless you ask the same affidavit of the union members or the union officers, that they would not continue to grow into big unions and get four or five hundred million dollars a year in. I think it was brought out yesterday here except for a few companies the unions are now bigger than the employers.

Senator MURRAY. So that as long as there is no limitation on the development of union organizations in this country, you think that business and industry should be allowed to develop to the fullest extent that it wishes to develop, regardless of its effect upon our economic system?

Mr. BOULWARE. Whatever is in public opinion and of the law-making bodies in the public interest, I think the measure of a company should not be its size, but it should be the good it does to employees, to customers, to the people with savings in it and its social consequences on the whole public.

Senator MURRAY. Well, is not there a widespread feeling in the country that the growth of monopoly in this country and the concentration of ownership is a dangerous threat to our democratic system?

Mr. BOULWARE. Well, I hear conversation about it.

Senator MURRAY. You think it is mere conversation. You do not think there is any merit to it?

Mr. BOULWARE. No, I think we are trying our very best, where we have monopoly, we are trying our very best as a country to limit, to avoid monopoly where it is undesirable in the public interest and to regulate it where it seems desirable in the public interest.

Senator MURRAY. You think it is desirable to have monopolies in some instances? You think monopolies are desirable?

Mr. BOULWARE. I think the public has found so in the public services.

Senator MURRAY. The general impression in the country is that the growth of monopoly and expansion of monopoly in this country is threatening our American way of life, and you think that that should be provided for in this affidavit, that we should, in order to protect our democratic way of life in this country against communism and fascism or against the danger that it may be overthrown by the gradual development of this collectivism system of business that we are developing in this country, we should provide for that in an affidavit and have all the managers of corporations take an oath, "We will no longer advocate the development of monopolies in this country"?

Mr. BOULWARE. I do not think anybody would hesitate—I cannot speak for anybody but myself; this is a moot question—to sign an affidavit not to get into monopolies that are contrary to the public interest as prescribed by the law, Senator.

Senator MURRAY. Your company is being sued, has been sued, has it not?

Mr. WILSON. Let me answer that, will you?

Senator MURRAY. It violated the antitrust and the monopoly laws.

Mr. WILSON. May I answer that? That is my department.

Senator MURRAY. All right, you may.

Mr. WILSON. Yes, we have been sued. In fact we have been sued several times in antitrust matters.

Senator MURRAY. Yes.

Mr. WILSON. What is the point about that, Senator? I do not know that I get your point.

Senator MURRAY. Do you think you should not be sued?

Mr. WILSON. Of course, we should be sued if the Department of Justice feels that we have violated some antitrust law, and we do not think so, why of course we should be sued and if we are found guilty of violating the law, we ought to be punished for it. There is no question about that.

Senator MURRAY. Well, do you think there should be some teeth put into it, put into the antimonopoly laws in this country so as to make them more effective, so that it would not be necessary for the Department of Justice to be constantly suing these corporations from year to year?

Mr. WILSON. Oh, I do not think that is a remedy. You are confusing two issues, as I see it.

First you talk about antitrust suits. You ask me whether we have been sued. We have not been sued on any monopoly, anything charging monopoly. We have been sued mainly about antitrust suits, alleged price fixing, and so on.

Senator MURRAY. Do you not think that is an evil thing in this country and do you not think that the American people should be protected against that?

Mr. WILSON. Against what, against what I said we were being sued for?

Senator MURRAY. Yes.

Mr. WILSON. If we are guilty, of course, it is evil and we ought to be punished. There is no question about that. We are trying to find out in a half-dozen cases whether we are really guilty under the laws, remembering that the cases charged against us were started 10, 15, 20, 30 years ago.

Now we are trying to find out whether we are guilty under the laws that have been interpreted as late as 1948 by the Supreme Court. We may well be in some of these cases guilty of the 1948 interpretation of the law by the Supreme Court. We were not guilty of any wrongdoing when we entered into these practices 30 years ago.

Senator MURRAY. Were you sued during the progress of the war for violating these antitrust laws in price-fixing cases?

Mr. WILSON. We were not. We were sued before the war and the Government itself asked the Department of Justice not to prosecute them during the war when we went over 100 percent to war production.

Senator MURRAY. The Department of Justice asked that they not be prosecuted?

Mr. WILSON. No, no; the Army, the Navy, or somebody, some other Government department asked the Department of Justice.

Senator MURRAY. Was it the War Production Board?

Mr. WILSON. No, no. The Army or the Navy. I do not know which it was.

Senator MURRAY. Did your corporation or any of the other corporations involved request that that action should be taken?

Mr. WILSON. I do not know.

Senator MURRAY. You have no idea about that at all?

Mr. WILSON. I have not the slightest idea. I went down to Washington in 1942 as soon as the war started and I cannot remember whether we requested it or whether the Army requested it. In all probability I would say—

Senator MURRAY. It was very desirable on your part that the prosecution should be suspended.

Mr. WILSON. No; it would not make any difference except as to our ability to produce war goods, not a bit. It would have been a fine time to have it out. I wish they would have had it out and have it over with. Then I would not have had to bother with it when I came back, for one reason, but you could not do that and produce war goods.

Senator MURRAY. If they had indicted you and convicted you, it would not have made much difference anyway because the punishment under the antitrust laws is not of such a character.

Mr. WILSON. Oh, is that so? I hope that is a guarantee on your part sir. You give me some news I like. I hope you are right.

Senator MURRAY. We have been listening to these prosecutions now for quite a long period and I have not heard of anybody going to jail for that.

Mr. WILSON. Well, the Department of Justice probably has not found any reason, or the judge has not regarded it as a good reason to put them in jail, but that can be done.

Senator MURRAY. You do not think there is any monopoly in the United States at all?

Mr. WILSON. Did you hear me say that?

Senator MURRAY. Yes.

Mr. WILSON. Did I say that?

Senator MURRAY. I am asking you.

Mr. WILSON. Oh, you are asking me. The answer is "No," of course.

Senator MURRAY. You do not think there is any monopoly in the United States?

Mr. WILSON. I did not make such a statement at all.

Senator MURRAY. I did not say you did. I am asking you if you feel that there is no monopoly in the United States.

Mr. WILSON. Well, I do not know of any.

Senator MURRAY. You do not?

Mr. WILSON. I do not know of any. After all, I keep pretty busy, Senator, running my own business, and I know I have no monopoly in that.

Senator MURRAY. Well, Mr. Wilson, did you prepare this statement yourself that you filed here this morning?

Mr. WILSON. No. It was prepared by a group of, I hope, experts who surround me in the General Electric Co., and we sat down together and we decided on the things we would submit to you, and they wrote it up and even the people who typed it are not here. Somebody else typed it for them.

Senator MURRAY. How many do you have collaborating with you?

Mr. WILSON. Here they are right here. I think there was one more that collaborated. Is that right, one more who is not here?

Senator MURRAY. Is Mr. Reilly on your staff, too?

Mr. WILSON. Mr. Reilly is—Mr. Boulware will explain. You explain what Mr. Reilly's position is.

Mr. BOULWARE. We retain him as a consultant.

Senator MURRAY. How long has Mr. Reilly been on your staff?

Mr. BOULWARE. About a week.

Senator MURRAY. About a week. He is registered here as a lobbyist, is he not?

Mr. BOULWARE. Yes, sir.

Senator MURRAY. Are all of the men associated with you in writing this thing up registered as lobbyists?

Mr. BOULWARE. No, sir.

Senator MURRAY. They are not.

What is your position with the General Electric Company?

What is your function?

Mr. BOULWARE. I am the vice president in charge of the employee relations.

Senator MURRAY. Do you take any part in writing articles or discussing these problems of organized labor and management?

Mr. BOULWARE. Yes, indeed.

Senator MURRAY. Have you advocated or have you suggested at any time legislation affecting the management-labor relations of industry in the United States?

Mr. BOULWARE. Not until today.

Senator MURRAY. Not until today. You have not had time to register yet then as a lobbyist; is that it?

Mr. BOULWARE. Well, I did not think I had to for this.

Senator MURRAY. Well, do you know that we have passed a law in this country providing that all lobbyists must register and state who they are employed by?

Mr. BOULWARE. I come here and testify without—

Senator MURRAY. I am trying to find out just exactly what your position is and what your functions are, and I am trying to find out if you are engaged in lobbying practices of any kind. I just ask you that question. Have you advocated the enactment of laws and have you talked to anybody connected with the Government, with the Congress, with reference to legislation of this kind?

Mr. BOULWARE. Not until I came down here to appear before your committee. You cannot escape talking about it.

Senator MURRAY. Now, Mr. Wilson, you say you had the assistance and collaboration of a great many in preparing this statement.

Mr. WILSON. I told you not a great many. Here they are. There are three of them, and there is one absent. He is back in the room, probably.

Senator MURRAY. Well, just what part of it did you prepare yourself?

Mr. WILSON. Well, you mean which words did I put in?

Senator MURRAY. Yes.

Mr. WILSON. I would not know.

Senator MURRAY. You would not know a single word in this entire statement?

Mr. WILSON. Yes, I am sure I can pick out some. Would you like me to pick out some of the words that I put in, Senator? I would be glad to, if you want me to.

Senator MURRAY. Did you not take part in preparing any feature of it?

Mr. WILSON. Yes, I told you we sat around. We had some skull practice on the subject, and we all added our little bit, "what sort of a story should we tell this learned body down there," and we all put in our bits, and it was taken down, and then it was written up and then we went over it again and corrected it, and we added some more, and I added some, and Boulware added some, and then we did it all over again. We were dissatisfied with it, and we came down to Washington and we went all over it again until midnight—or was it 1 or 2 o'clock in the morning, because I have been engaged in another job down here.

I am working over in the Pentagon Building on a little job for the Government, and I have an office over there, and I could not spend much time on it in the day time, so we had some skull practice at night and this is, I think, the rather poor result, sir, of all our efforts. The mountain groaned and brought forth a mouse.

Senator MURRAY. You accepted it as your statement?

Mr. WILSON. That is right. I made a few little contributions, you know, I hope.

Senator MURRAY. But you cannot specify the different contributions that you made?

Mr. WILSON. Would you like me to? Give me a little time. I will pick out the contributions I made.

Senator MURRAY. I should think if you spent so much time in working on this thing—

Senator DONNELL. He says he will pick them out. Let us give him time.

Mr. WILSON. Give me time. I will pick out some of the paragraphs I put in. Would you like that?

Senator MURRAY. Cannot you give me what kind of arguments you have presented there, what particular proposals you have provided, without going into it all? Can you not tell me that?

Mr. WILSON. Yes. I was very much interested and wanted to get just as strong a statement as we could about the freedom of speech, the freedom to work. I happen to believe that American workers ought to have freedom to take a job and so on, wherever they like and nobody should be able to bar them, so I stressed that in my contribution to this little work, sir.

Senator MURRAY. Do you think that management should have a monopoly on this method of presenting these arguments and petitions to the Congress here, or do you think that labor should be able to do the same thing?

Mr. WILSON. Oh, of course. I hope nothing I said gave you the impression that I think only management—

Senator MURRAY. So, you think if the head of a labor union should appear here with a statement in which he had been assisted by several of his co-workers in the field of labor, that there would be nothing wrong about that?

Mr. WILSON. Why I should not think there was anything wrong about it, no.

Senator MURRAY. I just wanted to get your opinion on it.

Mr. WILSON. That is my opinion, Mr. Senator.

Senator DONNELL. There has been no suggestion to that effect, Mr. Chairman. The suggestion has been that it is perfectly proper to do

just what you have adopted, what you have done this afternoon, namely, to inquire into the contributions that each person has made and who has made them, and I think it is entirely proper that you have done it, and I take it as quite a compliment that you have done it, and I would like for Mr. Wilson to have the time, if you will just give it to him, to tell us of some other contributions that he made. If he did not make any others, let him say so.

Did you make any others, Mr. Wilson?

Mr. WILSON. Yes, yes.

Senator DONNELL. Since the Senator has opened this up, I request that Mr. Wilson be given permission to state what his contributions were.

Senator MURRAY. He can do it on your time.

Senator DONNELL. You opened the subject up. That is all right with me. We will take charge of the time. Just tell us what you contributed there, Mr. Wilson.

Mr. WILSON. All right, I contributed substantially this first page. That is mine.

Senator DONNELL. Very well. Go ahead.

Mr. WILSON. Now, on the second page, the freedom to work, that happens to be one that interests me greatly, the freedom-of-speech one.

Senator DONNELL. Did you have something to do with that page, too?

Mr. WILSON. Oh, yes.

Senator DONNELL. Did you have a considerable part to do with it, or not?

Mr. WILSON. Yes; I contributed considerably to the writing of the first page and second page.

Senator DONNELL. What about the third page?

Senator MURRAY. Tell us what part of the argument you presented there, then? Can you tell us off-hand without looking at the paper? You are a smart man.

Mr. WILSON. Thank you, sir. Does that make me smart?

Senator MURRAY. Yes.

Mr. WILSON. I will tell the board. Maybe they will do something about it.

Senator DONNELL. We will be glad to have you to do so, and I think you are entitled to do so.

Mr. WILSON. Senator, I do not know whether you have a right to order a memory test, and if you have, it is not going to do you any good.

Senator DONNELL. I do not think, Mr. Chairman, the Senator has any right to ask the witness to blindfold himself.

Mr. WILSON. He is not going to put me through any memory test.

Senator DONNELL. We have never had anybody blindfolded that I have seen. Go ahead Mr. Wilson. What about page 3?

Senator MURRAY. You do not want to accept that test?

Mr. WILSON. No, no.

Senator MURRAY. All right.

Mr. WILSON. I do not; I do not.

Senator DONNELL. What about page 3? Did you contribute to that?

Mr. WILSON. You want more? Yes, sure.

Senator DONNELL. What part of page 3 did you contribute to?

Mr. WILSON. A substantial part of page 3. That is right.

Senator DONNELL. What about page 4?

Mr. WILSON. Well, I will come down to page 4, and I will tell you. The last paragraph of page 4 happens to have been written by me, the last paragraph of it.

Senator DONNELL. Yes. That is the one that says that you believe any good labor law must now deal with at least 12 specific areas of need?

Mr. WILSON. That is right.

Senator DONNELL. Which you encounter in your own operations and observe elsewhere. You said you would like Mr. Boulware, who is your vice president, to make a specific recommendation?

Mr. WILSON. That is right, so there may be no question about how the rest of it was prepared; then, we all sat around those that I mentioned before, the five of us, I think, including myself and we had skull practice on the rest of this.

Senator DONNELL. You did that jointly?

Mr. WILSON. That is right.

Senator TAFT. Skull practice, you say?

Mr. WILSON. Skull practice; yes, sir.

Senator DONNELL. How about the brain practice as distinguished from the skull?

Mr. WILSON. Well, I am afraid you would not attribute that, or some would not——

Senator PEPPER. I yield for the moment to Senator Neely.

Senator NEELY. Mr. Chairman, I understood the witness who is sitting by Mr. Wilson's side to say that in the instance to which you refer, one of the company's trucks while being driven by a member of another union was stopped by a picket. Was the union to which your truck belonged a legitimate union or a company union?

Mr. BOULWARE. It is a CIO union, U. E., from our Newark plant, United Electrical Workers from our Newark electric light bulb plant. CIO.

Senator NEELY. Do you know to what labor union the picket who stopped your truck belonged?

Mr. BOULWARE. No; I do not. I assume it was the teamsters union, one of the teamsters' locals in New York, sir. I do not know.

Senator NEELY. That is all.

Senator PEPPER. Mr. Wilson, since I am speaking in my own time, I might say by way of explanation that I am sure, as I indicated a moment ago, what prompted Senator Murray to ask you those questions is that day after day on this and other hearings, Senators on the other side have interrogated witnesses in the most minute detail. "Which line did you write: which sentence did you write; which paragraph?"

I think Senator Murray simply wanted to show it is rather ridiculous to ask a responsible man who comes here with the background you have, which part of the statement he is responsible for. We hope that will not be repeated on either side again.

Senator DONNELL. May I say it will be, Mr. Chairman.

Senator PEPPER. It will be?

Senator DONNELL. It will be on this side; yes, sir.

Senator PEPPER. Probably it will be a rule that will work both ways, then, Senator.

Senator DONNELL. Very well. I am very glad, indeed, that Mr. Wilson was asked these questions.

Senator PEPPER. I am sure that this is the first time anybody on this side has ever interrogated a responsible witness about the details of a statement. Of course, he adopts as his own any statement that he brings here.

Mr. Wilson, I was looking over your statement. The Taft-Hartley Act, of course, abolished the closed shop. Did General Electric ever have the closed shop?

Mr. WILSON. We may have had it in some obscure plant, but I cannot remember. Generally speaking, no, Senator.

Senator PEPPER. Do you have the union shop now?

Mr. WILSON. Not now. Generally speaking, again, no. In some of our scattered plants, scattered units, a couple of plants, but generally speaking, no, Senator.

Senator PEPPER. How many employees does the GE have on an average?

Mr. WILSON. Well, on an average—over what, a year? You mean recently? How many do we have now?

Senator PEPPER. Roughly.

Mr. WILSON. One hundred ninety-seven thousand, two hundred.

Senator PEPPER. I asked that honestly, because I thought GE was organized. What is the percentage of union membership amongst your 190,000 employees?

Mr. WILSON. About 150,000—no, no, I do not think so. This is about right, 120,000 or 125,000 are unionized.

Senator PEPPER. Well, most of them are members of the union.

Mr. Boulware, you are an expert in this field. I had the pleasure of meeting your vice president on a plane at one time. We had a pleasurable visit.

What kind of union affiliation do your men have?

It is not the closed shop, and it is not the union shop.

How would you characterize the kind of union they have?

Mr. BOULWARE. We have 44 different contracts, but maybe half a dozen small ones do we what we call the union security. We have the check-off in practically all of them at the pleasure of the workers.

Senator TAFT. But you deal with an exclusive bargaining agent, with the union as exclusive bargaining agent in all the plants?

Mr. BOULWARE. Oh, no. We have 16 plants where they have never voted for the union. I mean they have voted many times for the union, but have chosen to stay nonunion.

Senator PEPPER. The union shop did not exist in any of your plants?

Mr. BOULWARE. No; maybe three or four small ones, sir. We have had a lot of service shops.

Senator PEPPER. I was going on the assumption that you did have not the closed shop but the union shop. I was going to ask you what influence, what effect upon elections the union-shop provisions of the Taft-Hartley bill has had, but if you do not have it, why, that question would not be pertinent.

Mr. WILSON. We do not, Senator.

Senator PEPPER. Is it fair to ask whether you have what is called a company union?

Mr. WILSON. No.

SENATOR PEPPER. You do not have a company union. Well, now, in respect to the right to work on the part of the individual as against the union, which is mentioned in your statement here, in order to emphasize how difficult it is to regulate the workers' relationship to their union, and also every aspect of the workers' relationship to their employer, does not the employer, except in respect to firing a worker because he belongs to a union, or in breach of a contract he might happen to have with either the worker or the union, does not the employer have complete freedom with respect to hiring and firing employees in this country?

MR. WILSON. Go ahead and answer that, Boulware. Not if you have a closed shop, I would not say.

SENATOR PEPPER. Leaving out the closed shop.

MR. WILSON. Leaving out the closed shop, leaving out a union shop?

SENATOR PEPPER. Leaving out the union shop, leaving out the closed shop, and leaving out any case where there might be a contract that might govern the matter, does not any employer, with respect to the employees, as, for example, the employees that I have in my office—does not any employer in this country have complete freedom of action with respect to hiring and firing?

MR. BOULWARE. Oh, no. Wherever we have a union contract—

SENATOR PEPPER. I say, leaving out the case of a contract, is it not the ordinary pattern in our economy that an employer, your company, for example, can hire and fire for other than belonging to a union, but you cannot under the Wagner Act and the Taft-Hartley law fire anybody for union activities without getting afoul of the law, and if you have contracts with them for a year's time, for example, you could not fire them within a year without getting into a lawsuit; but I say, leaving that out, taking Mr. Wilson as president of the company, does he not have—I would not suggest that he exercises that authority, but does he not, and practically every other employer have—the right to hire and fire for even arbitrary or capricious reasons if he wants to do so?

Do I not have the right, could I not this afternoon, and if I were running a shop down here which were not unionized or governed by any law—could I not just send word over to my office and discharge every employee I have got this afternoon?

MR. BOULWARE. If you were shortsighted enough to do that, surely, but you only survive in this—

SENATOR PEPPER. We are talking about power. Now, I suppose there are instances where people probably discharge employees arbitrarily. I do not think there are many.

In a way, are you not entitled to accord the union about the same rights in respect to its membership? Is it not about as fair to assume that a union will not, without the compulsion of law, throw out one of its members or take some action detrimental to its members any more than an employer would exercise an unjustifiable and capricious authority in discharging an employee, and yet you have got nobody, why, it would sound like the rankest of radicalism, certainly nobody on this side would propose to say that you would have to be limited ordinarily in hiring and firing.

You are presumed to use decent judgment, and so on.

Yet this Taft-Hartley law is aimed at regulating the relationship between the individual employee and a union which by hypothesis is formed in order to help him and protect him and his fellow workers to get a better standard of living and more security in his work.

Now what I am raising is this, Mr. Wilson, and I do not need to tell you that I have great respect for you. I have counted myself fortunate in knowing you and having your friendship.

Mr. WILSON. It is mutual, sir.

Senator PEPPER. I regard you as a very fine American, but a lot of us disagree with the approach of this Taft-Hartley law as distinguished from the Wagner Act, because we feel in the first place that it attempts to regulate in more detail than you can effectively regulate, and in the second place that it is one-sided, it is weighted on one side, that the Wagner Act was a law that was a very simple law. Maybe it was not good enough, but it was pretty simple on both sides.

The only burden it imposed on the employer was the obligation to bargain collectively with the representatives of employees who were duly chosen. Now that was the only affirmative obligation that I have heard from anyone stating that the Wagner Act imposed upon the employer.

Now it did lay certain prohibitions upon him. It said, "You cannot interfere with the right of your workers to organize. You cannot interfere with their having a fair election, and you cannot discriminate in hiring and firing with regard to whether a man is a member of a union or not."

Now maybe that did not go far enough in the regulatory field, but that is about all that law did with respect to management.

Now I am not talking about the decisions of the Board. I am talking about the language of the law.

Now, then, it did not impose any affirmative obligation on labor. It just said that labor had the right to organize, and to hold an election to choose a representative of that group of employees to bargain with management, and it gave them the right to resort to the protection of the National Labor Relations Board for the protection of those rights, so that here was a law that hardly had anything of regulation on either side in it, and we went along under that for 12 years.

Well, now, I am not saying that the NLRB, every case they decided, has been right, any more than I might agree with every decision of the Supreme Court. We do presume if they get too badly out of line, why, we can correct them by statute. Maybe the court will correct itself sometime or maybe some other court will.

Senator Murray calls my attention to this, an excerpt from the vice president of the General Electric Co. in Schenectady dated October 1938:

It has been my pleasure and good fortune to have a number of dealings with Labor Relations Boards at Pittsburgh, Philadelphia, and New York. I do not see how anybody could have any difficulty with any of these people.

As to the Wagner Act, it has never given us in the General Electric Co. the least concern, nor have we found its provisions difficult to follow. It was passed with the idea of helping the laboring man; and this, I am sure, it has done.

I do not know if that is a correct quotation.

Mr. WILSON. The gentleman is retired, and I think we have all learned a lot since then, which indicates that he was certainly on the wrong track with that statement.

Senator PEPPER. Yes.

Mr. WILSON. You live and learn.

Senator PEPPER. Now what I started to say was, we come along after 12 years under the Wagner Act and we have the war, and then after the war, extra time is shut off for the workers, the war being over, fortunately, and then they start taking off the controls and the authority to keep prices down. Prices start rising. The workers' wages begin to decline a little bit.

A lot of the workers remonstrate, a lot of people remonstrate against taking off controls. Congress in its wisdom does not heed those admonitions. We take them off. Prices rise some more and a lot of these fellows, maybe, got used to a little better standard of living during the war.

The manpower productivity has increased a little bit since the war. They do not want to go back, of course, to those old conditions that they had. They want to hold these wages up.

Management and labor, for their own reasons—I am not condemning them—do not get together and we go through what is almost an inevitable aftermath of the dislocation after the war. We have an unfortunate number of strikes. Public opinion in some cases gets very indignant in certain individuals, certain organizations, and in certain cases, and a sentiment develops that we have got to regulate labor, we have got to do something to curb the power of these labor unions; and Congress comes along here, after our brethren on the other side get the dominancy in the Congress—which was, of course, short-lived, but they come along—and they pass the Taft-Hartley law.

Now a lot of us feel that for the first time there was a Federal enactment of detailed regulatory measures of labor unions, and I want to tell you this, Mr. Wilson: If this kind of law survives in the books, you are going to find that the aftermath of it will be that there will be another crowd down here in Congress that will start in trying to make a law that corporations get a Federal charter, regulating your relations with your stockholders and seeing whether they will all have a fair proxy and whether the officers have got too big an expense account or whether you used good judgment about this, that, or the other.

It cannot but inevitably lead to a correlative degree of Federal regulation over the internal structure of the corporation.

Now what a lot of us want to do—I am not introducing any bill to take away from the States the charter of the corporation and go into the minute government of your relation with your stockholders and this, that, and the other. I figure they will protect themselves some way or some State will pass a law about it if there is anything wrong.

Some of us want to go back and keep the Federal Government in this field from going too far on either side in the regulation of the internal affairs. Now, of course, some labor unions are going to abuse their power. They are going to kick some fellow out that ought not to be kicked out, but I do not know how to prevent that without exercising a curb upon the functioning of that union which is just going into too much detail, and so I was merely suggesting that a lot of us feel, not that we want to countenance all of these abuses, but we feel that we certainly ought to give the States the first opportunity to work out and curb a lot of these abuses without attempting to do it here in

Washington, and that in the long run it may be that industrial peace can best be brought about by not going too much into detail.

I just want to give you that word. I will be glad to invite your observations.

Mr. WILSON. Well, Senator, I have observed what you are proposing to do with the new bill and so on, and after your fine remarks I rather hesitate to put myself in the position of being a stand-pat, but I am on this subject. I really think, as I have traced the efforts of this committee and read the testimony—I did not hear it for a couple of hours, I think, an hour and a half yesterday, but as I have listened to it I really cannot find that there has been anything brought forth that the newspapers have reported that I have been able to find that really proves that in any important respect the present bill is not a bill which has brought balance—

Senator DONNELL. The Taft-Hartley Act?

Mr. WILSON. The Taft-Hartley Act is what I mean, the present Taft-Hartley law. The other one is in prospect. That is what I meant, but Taft-Hartley has given balance to the negotiating ability between big labor-union management and big industrial management, and little labor-union management and little industrial management. It has brought about a balance.

I really cannot find, I cannot agree as I have read it, that there are any abuses there. I honestly cannot find them.

I think it has brought about a condition that we had just gone along with it, gone along with it and worked with it and tried to bring about something that I think has been missing and terribly missed in the whole situation, the spirit of unity in this country of ours, but instead of that it seems to me that we are on the road to get it through the better relationships that it seems to me have been coming about in bargaining arrangements between the unions and labor in the last year or so, and I really think they are better myself. I know they are in many parts of our organization.

Senator DONNELL. Senator Pepper, pardon me. Due to my interruption of Mr. Wilson I think the reporter probably got a word which Mr. Wilson used which diametrically on the face of the record makes it sound opposite to what he means.

He said in substance that he had not been able to find anything to indicate that the Taft-Hartley bill had brought about these results.

You mean you had not found anything in the papers or anywhere else that had not brought it about?

Mr. WILSON. The objections made to the Taft-Hartley bill—let me make that clear—as I have read it in the papers, I do not believe were of a nature to prove at all that any change is needed in the Taft-Hartley bill; that the Taft-Hartley bill I honestly believe provides a basis for a good relationship between labor and industry in this country, if you will give it a chance.

Senator DONNELL. I was sure that is what you meant.

Mr. WILSON. That is what I did mean.

Senator DONNELL. Due to my interruption there was a negative instead of an affirmative.

Senator PEPPER. I want to ask two or three more questions.

Mr. Wilson, of course, we have come almost to the time of adjournment, and I will not go through the act now to show you where a lot

of us think the burden has been shifted more to labor and less to management, but if that should be a fact, I know that generally the ordinary business executive feels that that is what this law was intended to do, and that is what it does do.

I just ask you this: If there were burdens that were correlative and they have been imposed on one side and not imposed on the other, you would say that the certainly was discriminatory and was certainly unfair?

MR. WILSON. I would say that if there is anything that has destroyed the balance—I think under the Wagner Act we lacked balance in the bargaining arrangements between labor and management. I think the Taft-Hartley bill gave it the balance we needed.

SENATOR PEPPER. My attention is also called to the fact, is it not true, under the Wagner Act that General Electric and General Electric CIO had amicable and constructive relationships, all of which redounded both to the interest of the company and its employees, and my attention is called to this statement of February 21, 1938, the joint statement on conclusion of negotiations for a national agreement:

The General Electric Co. and the United Electrical, Radio, and Machine Workers announced today the terms of a national agreement which has been decided upon after 2 weeks of negotiation. The contract is now before the union's affiliated General Electric locals for their consideration, and will become effective as soon as ratified by them.

Negotiations were conducted most amicably, and in the same spirit that has characterized the relationship between the company and the union in all of the plants where the union has members.

The agreement provides recognition for the union as the sole collective-bargaining agent for those plants where the union, through a National Labor Relations Board election, or certification, or other appropriate means satisfactory to both parties, has been designated, or shall in the future be designated as the sole collective-bargaining agents.

Now it looks like you were getting along pretty well back there under the Wagner Act with your employees in the union.

MR. WILSON. We were learning; we were learning. There is no doubt about it. As a matter of fact, we did not have any real trouble, never had a strike until 1946, and then we would not have had a strike except that the Government on the one hand said, "You cannot raise prices, but you have got to raise wages," and when I saw the capital structure of my company endangered, I refused to grant the wage increase until the Government on the other hand indicated whether it was going to make it possible to raise prices and keep from putting the red flag up.

SENATOR PEPPER. Well, now, would you say that in that case the difference of opinion that brought about the work stoppage was any more the fault of labor than either Government or management?

MR. WILSON. What work shortage do you mean?

SENATOR PEPPER. There was a strike, was there not?

MR. WILSON. Oh, the stoppage.

SENATOR PEPPER. The stoppage of work. Would you say, then, that in that case the sole responsibility for that strike was on the part of the employees rather than the Government and management having some part in the decision?

MR. WILSON. Oh, no; I would not say that was their decision. There will always be honest difference of opinion as to the way the decision ought to be made in that kind of a case.

We had offered—just so we get that clear to you, Senator—a substantial wage increase which we thought was taking a very considerable risk, having at that time, I think, 175,000 employees, a considerable risk if we had to maintain, as the Government had said, that, but we took that risk. That is as far as I thought we would go.

Now the union made a decision that they would not wait for the Government. They had to have it all according to a national pattern. That is all right. That was their decision.

Senator PEPPER. I was just going to ask you that. You are a truthful man, and do not deny them the right to have their opinion. Do you think we should have come along here and got mad with General Electric because you did not give these fellows what they asked, come out here and pass a law to regulate corporations and to determine your distributors profits and how much executives could draw and how much you could spend for advertising?

Mr. WILSON. You just finished the other part of determining how much executives could draw. You just let up on it at that time. It did not affect me. I was down in Washington getting \$8 a day.

Senator PEPPER. A lot of us cannot see why if we are going to get mad with labor for striking—and I think reading the literature at the time will plenty well convince the observer it was the number of strikes that occurred in 1946 largely, as you have been frank enough to say here today, for economic differences, they were not a bunch of scoundrels or lacking patriotism. They had a point of view, they had interests to serve, and they exercised their best judgments trying to serve them.

You had your problems. You had stockholders to be accountable to, and you said, "I cannot meet those demands." The Government, you said, was interfering in the matter and they were expressing themselves on it and there was a work stoppage, but what happened? The headlines in the papers were, "Strike Against General Electric" and some other group of workers would do the same thing over here with some other executive that was equally on the alert like you to protect his stockholders and his obligations. He said "No," and they struck. "Strikes Again," big headlines in the paper, "So many thousands strike," and you get Congressmen and Senators and they start making speeches up here, "We have got to regulate these labor unions."

Now, I tried to put into the record when we were debating this subject, the figures as they came from the Labor Department to show the cause of most of the strikes, and the differences over wages and hours were the majority causes of strikes. Yet, I said, if those were the majority causes of strikes, how are you going to stop strikes unless you put into this law something that will minimize those disputes.

Yet the Taft-Hartley law did not settle it. If you had had the Taft-Hartley law in effect, would it have made any less acute and sharp that issue between you and the employees?

Mr. WILSON. In 1946 you mean?

Senator PEPPER. Yes. Would they not have had the right to strike if they did not want to take your wages?

Mr. WILSON. Yes.

Senator PEPPER. And would you not have a right to decline to give what they asked, so this Taft-Hartley law does not stop all strikes?

Mr. WILSON. We did not have a strike and we had another go-around in 1947 and another go-around in 1948.

Senator PEPPER. That was contemporaneous with the national pattern, was it not?

Mr. WILSON. That is right.

Senator PEPPER. It was the second demand and the third demand for wage increases.

Mr. WILSON. That is right.

Senator PEPPER. Just one other thing, Mr. Wilson. Just let me ask you as one of the informed members of the public of this country, under the Taft-Hartley law do you consider that in case the President finds that a national emergency exists and that there is a threat to the national health and safety, do you understand that the President has the power to direct the Attorney General to get an injunction and the Attorney General has authority to apply to a Federal court for an injunction, and that the court has authority to enjoin those workers from striking and keeping production in progress for 80 days?

Mr. WILSON. As I understand it the court has the power to enjoin the union from ordering the workers off the job.

Senator PEPPER. You do not understand that the court has authority to keep the workers from going off the job.

Mr. WILSON. Well, there is a distinction there, as I understand it, that the procedure is that the court would order the union not to be a party to ordering them off the job.

Senator PEPPER. The reason I raised that question is that we have the most sharp differences of opinion right here in the committee as to whether or not the law intends to keep the mine workers, for example, from going off the job if the court enjoined them; and yet the average citizen out there that writes us letters, if we talk about taking that ambiguous authority out, he thinks we are about to bare the Nation to the possible danger of a work stoppage, a cessation of work by a large number of miners, of men engaged in other essential industries, whereas on the other hand there is also a difference of opinion as to whether the President has any inherent authority in case there should be a great crisis, to go to the courts anyway, and our bill does not say anything about that, the Thomas bill, but it does provide this national fact-finding board, and for the first time gives the Board the right to make recommendations.

Sow they have not had that right in the past. These advisory boards, I believe, have only made findings, but they have not made recommendations.

Our theory is that the law imposes an obligation on the workers not to quit for 30 days, and it says that the President shall appoint an advisory board during that period and they shall have authority to make recommendations which would carry great weight, we think, with public opinion and with the parties to the dispute.

Then if the parties still do not settle the dispute in conformity with the recommendations, the case is just exactly where it is under the Taft-Hartley law at the expiration of 80 days, because nobody claims, if there is the power to get an injunction under the Taft-Hartley law, it can last longer than 80 days.

Now this whole question of what to do in that field is still up in the air. I dare say there are a great many differences of opinion about it.

Some think we should have seizure, some think we should have one method or another, but this is a field in which honest men can honestly differ; is it not?

Mr. WILSON. There is no question about that.

Senator, I do not pretend for a minute to be an expert in all or in any of the variations of this law, but let me tell you this. This is my last word to you on it.

I talked to a great many of our people in shops and all over the United States, and I can tell you honestly that I have yet to find a man who so freely uses the term "slave-labor bill" that is applied to the Taft-Hartley law.

I have yet to find a man, when I ask him, I mean in the shops, the men really affected by this bill, allegedly, who object to the pattern of it in any specific thing. Indeed when you poll them, if you please, they are for it, and I honestly do not know of anything, any phase of it, that the men really regard as unfair. I cannot think of anything in it that is unfair to the unions with which we have to do business.

I do not know what it is. I hear a great deal about the fact that it is terrible this and terrible that and a slave-labor bill, but I do not see it. I cannot find it.

Senator PEPPER. Well, it may be that your people in your enterprise would not think there is anything you were doing that smacks of monopoly or violates the antitrust laws, but evidently the Government finds something there. There is a difference of opinion about it.

I think the evidence pretty well justifies, Mr. Wilson, that the workers feel that way, maybe because they have been taught that; maybe they have been told that.

Mr. WILSON. Some phases of it I happen to know they like.

Senator PEPPER. If it takes 10 years or 20 years for them to do it—and they have the power to do it—I think en masse, the labor of this country will continue to fight against the Taft-Hartley bill. Mr. Green was here yesterday or the day before and brought out the slave-labor part of it, and he said that, if the injunction features of the bill mean what the advocates say it means, it has the power to require workers to stay on the job 80 days after they want to quit; that that is requiring compulsory servitude. Now, it is a difference of opinion as to whether it means that or not, but people think it means that.

The CHAIRMAN. The Chair would like to say that Senator Pepper is right. There is always a great difference of opinion on this committee; but, so far, I have not been able to get anybody to strike. I call attention to the fact that we are 15 minutes overtime.

Mr. WILSON. Could I just show you this? You say that the men have differences of opinion. Here is how the differences of opinion are easily worked up when the people in our shops are subjected to this. This is where this union is telling you gentlemen what it expects of you with respect to the Taft-Hartley law.

Senator DONNELL. What does it say there, Mr. Wilson?

Mr. WILSON. Well, it says, "Tell your Congressman we put you there to repeal the Taft-Hartley law."

Senator DONNELL. That is on the front page, big type. What is the picture?

Mr. WILSON. The picture is a man representing labor putting his finger on employer lobbies, the Taft-Hartley. Well, I do not know—the bloated plutocrats, the usual bloated plutocrats [indicating].

The CHAIRMAN. Mr. Boulware.

Mr. BOULWARE. Mr. Chairman, I would like to have this statement incorporated in the record. It is additional information as to General Electric experiences indicating needs in the labor law.

The CHAIRMAN. The statement will be incorporated.

(Mr. Wilson's prepared statement and the additional statement referred to by Mr. Boulware follow in turn:)

STATEMENT OF CHARLES E. WILSON, PRESIDENT, GENERAL ELECTRIC CO., BEFORE THE
SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE FEBRUARY 16, 1949

My assumption is that what we all seek here is labor law that serves the public interest—that is fair to employees, to unions, to employers—while adequately protecting innocent bystanders and the whole public.

Three years ago, when I testified on this same subject before this committee in the Seventy-ninth Congress, I stated my belief that in this country we have passed the era of considering the interest of either management or unions as being preeminent. I urged then that the interest of the whole public should be accepted as paramount. I urge it again today.

I have spent a whole lifetime—in private and in public service—trying to increase our country's standard of living by increasing our production. In this effort, I have come more and more to see and to believe both the human and the material values of our freedoms.

I am genuinely alarmed at the bill before you because of what seems to me to be its threat to our individual and collective freedoms through removal of safeguards now so wisely in force.

The first of these threatened freedoms is the freedom to work.

The present law's banning of the closed shop, together with the provisions protecting a man from losing his job because he may have offended those in power in his union, were important return steps toward again guaranteeing to the working force of our Nation this basic right—the right to work.

Such provisions need to be strengthened. To remove them would be to take a step backward. To permit a man or woman to be arbitrarily deprived of the very means of livelihood on someone else's whim—or to give one organization an entire monopoly on jobs—simply is not in accord with what public policy should permit.

The second of our threatened freedoms is freedom of speech.

In this respect, prior to the present law, one of the darkest areas in the whole country existed in certain union practices where economic oppressions and reprisals were heaped upon a member who dared oppose the group in power or boldly exercised freedom of speech, or who asked for an accounting of how his money had been spent, or for an honest election, or in some cases for an election at all. To say such practices were unusual or few in number is no answer. The fact is men were denied their rights.

Further, management certainly should have the right, equally with unions, to state its case to its employees and the public. Either side should be permitted free speech equally, as long as no unfair promises or benefits are held out and no threats of reprisals made.

Third. Freedom from waste, human and economic.

The jurisdictional strike has no defenders. Likewise, the true secondary boycott is, often, an effort to enforce labor monopoly practically at pistol point. Granted, the President has asked some curbing of these. To be effective, the machinery to do so must be instantly available and promptly used, so that the remedy is at hand before the damage is done.

Featherbedding, also, is a burden on the backs of the whole public; adding costs and delays that the public should not be asked to bear and that, in the end, benefit no one.

Fourth. Freedom from national paralysis.

The whole prosperity of our people, our whole standard of living, rests on the use of our productive capacity. The entire productive facilities of the Nation should not be subject all at once to stoppage by some strategically placed union group. I believe in the right to strike, but I do not believe this right should be so abused by a relatively small group as to tie up and damage the whole country.

The present power of the President to protect the Nation from strikes that threaten the national health and safety certainly must not be weakened. On the contrary, you probably will want to explore how it may be strengthened and made more effective. Since General Electric operates the great plutonium plant for the AEC at Hanford, we naturally watched with concern during the atomic energy dispute at Oak Ridge last year, in which the President felt he needed all the teeth in the present law and used all six steps the act contemplates. Not only for atomic energy, but in other vital industries, the public interests must have effective protection. We have all seen the President need—and use—the machinery of the present law in what seems to be his annual coal problem and his periodic shipping problem.

Any adequate and fair labor law—by whatever name—must, in my opinion, provide at least the following:

1. Protection of the public.
2. Protection of the rights of individual employees from abuses either by employers or unions.
3. Protection of legitimate rights of both unions and employers.
4. Requirement of equal responsibility on the part of both employers and unions (one-sided legislation obviously will produce one-sided results, as we saw under the Wagner Act).
5. Protection of free speech for both employers and unions.
6. Protection of freedom to earn a livelihood.

To meet these requirements, I believe any good labor law must now deal with at least 12 specific areas of need which we encounter in our own operations, or observe elsewhere. I would now like Mr. L. R. Boulware, who is our vice president directly responsible for employee and union matters, to make specific recommendations based on our experience.

1. *Communism*.—Not only as a private employer, but as a contractor for the Atomic Energy Commission, we believe the labor law should require affidavits of both company and union officials that they do not belong to the Communist Party or to any party which plans, teaches or advocates the use of force or violence to overthrow the Government of the United States. We believe we see, at various places, some examples of members in unions having been aided—by the non-Communist affidavit requirement—in making progress toward better local and top leadership in their unions.

Certainly, the very wonder by union members at some officials' refusal to sign has led to a great deal of new local consideration of the national problem. In a great many cases they have elected new officers where the determining factor seemed to be the belief of the membership that it would be getting new leadership with less Communist taint or certainly with less public suspicion of that taint. There have been published reports, I believe, of such instances at Schenectady; Fort Wayne; Pittsfield; Dayton; Pittsburgh; Lima, Ohio; Fairmount, W. Va.; to mention only a very few.

I strongly urge that the non-Communist affidavit requirement be extended to all union officials from top officers to stewards and, in order to prevent circumvention, to all paid representatives of the union—and likewise to all corporate officials and company representatives who meet them in bargaining. The employer should be expressly excused from dealing with the representatives of a union which has not met these non-Communist affidavit requirements, as well as those about filing of financial and other information.

2. *Jurisdictional strikes*.—General Electric has had experience with this type of strike. Just one recent instance concerned a dispute between two unions at a research laboratory of ours engaged in secret United States Navy work. Under the present act there was quick relief from the NLRB. The settlement precipitated by this was, as it happened, exactly in accordance with past practices in the community. Without the law, serious damage would have resulted to the company, to many workers, and to the Nation. Our company has experienced, and is experiencing, instance after instance of this—at Schenectady, Syracuse, Jersey City; in California and Kentucky, and practically all over the Nation. I'll be glad to detail some of these if the committee should want to hear of them later in a question period.

But General Electric's experience is not unusual, as you know. The committee will recall testimony as to the CIO-AFL soft-drink strike on D-day in Detroit; the port-closing longshoremen and sailors union strike in Oregon which lasted 6 months; the AFL-CIO cannery strike in California when 25,000 tons of fresh vegetables rotted; the bomb-throwing, window-smashing, man-beating CIO-AFL Pittsburgh "teamsters' war"; and other instances of terrorism.

3. *Secondary boycotts.*—A true secondary boycott at our radio tube plant in Owensboro, Ky., hangs over our heads as we deliberate in this room—a typical case of a union trying to organize a nonunion contractor by telling a company using the contractor's services to see to it that everybody you deal with joins up or we'll put you out of business. I'll be glad in the question period to tell you of this case in detail, or of many others. We have lots of them.

I urgently recommend that any new revised law give protection to the innocent third party or other bystander who—with his employees—ought to be allowed to go about the providing of jobs and his other legitimate business unmolested by force. Any cases of collaboration between two employers to break a strike, such as have been cited before the committee, are now amply taken care of. I believe, under the present law through the rulings that they are primary boycotts or primary strikes—due to the community of interest—and, therefore, do not fall under the ban on secondary boycotts.

General Electric cannot sell certain types of electrical goods in New York City unless these products are completely and uselessly rewired by the local union. A typical instance is that of an electrical supplier—not General Electric—who was refused the contract for a bid of \$56,000 on a low-priced housing project because his product "did not bear the [local] union label" despite its having been made in a union shop elsewhere. The order went to a local union manufacturer at a price of \$110,000, just \$54,000 higher. This situation continues to exist in New York today. For example, when General Electric manufactures control equipment for use in the New York area, it is assembled and tested by CIO union members in Schenectady or Philadelphia or Pittsfield, and it is then ready for use. However, in certain cases General Electric has been forced to disassemble this equipment, ship the components into New York all tagged for the guidance of the less experienced local union men here, and then have it reassembled by this local union. More than double the original assembly work has again been paid for as pure waste.

We constantly have similar problems in city after city across the country. And, of course, all the jurisdictional cases and secondary boycott cases we have to cite are additional efforts toward monopoly.

Human beings just can't stand too much unchecked power. That has been found true of the businessman, the military officer, the Government official, and even the Government itself. It is true of the union and the union official. The same scrutiny, the same correctives, and the same further preventive powers are needed—and needed in the public interest. The time is now.

4. *Featherbedding.*—Production is the secret of our ever-rising American standard of living. We have only what we produce. To be sure, we get practically all our advances in production from incentive-inspired and owner-provided technological improvements that lengthen men's arms. But to the exact degree that we let "make-believe" work limit the amount of production otherwise available from our national work force, just to that degree do the rest of us needlessly pay, feed, and encourage more nonproducers, thus lowering the standard of living otherwise available to all. This is obviously unfair to the people who do work. Featherbedding is morally bad, and economically feeble-minded. I urge you to permit me later to describe our Sherman Creek turbine case, for instance, and many others. Meanwhile I urge that the present law be strengthened to cover needless work as well as work not performed.

5. *National emergency strikes.*—We believe the right to strike must be preserved except where the consequences of a strike to the many are out of all proportion to the issues involved for the few. National paralysis just ought not to be available as an economic instrument to any selfish individual group. We simply must calmly devise a means, or earnestly learn how, to settle these things equitably in the interests of both parties to the dispute while at the same time safeguarding the interest of the whole public. The entire Nation—innoent bystander to the dispute—suffers almost at once from these national paralysis strikes.

Public opinion and requests by the President have proved ineffective in the past to protect the public against a powerful union organization or official in a recalcitrant mood. And I can't imagine a Presidential proclamation doing any

good with the characters involved when the chips are down. I can't imagine the President thinks so, either, in view of his resort on at least six occasions to the injunctive remedy in the present law, and his appeal to Congress for authority to draft the railway workers.

As to what final remedy you should prescribe—whether it should be separate legislation in each case after the nature and scope of the emergency is known, or should be the exercise of general or specific powers to be given the President—I recommend that the present provisions of the law be retained unless and until some more effective measure is developed.

But, whatever is done, I plead as a citizen that the President continue to have available some positive statutory power to delay such a strike 80 or 90 days while he and the Congress and others involved are making up their minds what must be done to be fair to the parties and the public.

In this connection, I cannot understand why various people in and out of unions and Government should any longer feel a peculiar reluctance about having the injunction processes of the law apply equally to any needed situation in union affairs—just as it applies to all other private and public institutions and individuals. To be sure, the very subject has come over the years to be a great emotional rallying point and a political hot potato. But we are all much more mature now in union-management affairs. The courts and public officials can certainly not be regarded as having anything but the most tolerant, and even indulgent, attitude toward the practices of union officials in organizing and striking.

The injunction is an honorable device for use in the public interest. Unions have become the most influential and powerful political and economic factors in community after community as well as in the Nation. Why must anyone feel that the public must be deprived of the availability of this demonstrably needed protection, when businesses and businessmen, governments and Government officials—even Cabinet members—are subject to being enjoined by the people's courts.

If we try now to sidestep this issue on emotional grounds in both national and jurisdictional strikes, are we not confessing that already the power of union officials has grown to the point where we are too afraid of it even to act like we think there is any conceivable instance where this power may—or does—need to be questioned in the public interest?

6. The closed shop.—The closed shop affects us primarily in the cost of what we buy, in the costs added to our products after leaving our plants, and in the real wages represented by our employees' money wages.

We believe the closed shop violates the right of free choice—as to jobs, as to association, as to free movement, as to buying and selling goods and services. We believe it makes for poor value in goods and services, arrests technological advances, and hinders a rising standard of living. We believe it even imperils free government at the local level—and may at the national level.

For a long time the restrictive practices—since they were practiced by so few—did not noticeably affect the cost of living or the freedom of competition or of individual action in working, buying, and selling. But with the growth of unions—especially those widely practicing compulsory unionism—both “closed shop” and “closed unions”—the problem took on compelling proportions. And with the Wagner Act—and its administration in such a hostile manner toward the employer and in such an indulgent manner toward almost every act of the union official—the public began to wake up and clamor for the law that is in the present law. This is confirmed by the fact that the laws of some 20 States, 16 of which have been adopted within the last 2 years, now provide for some form of restriction on compulsory unionism.

The closed shop begins by being wrong in its power over the individual employee and the employer. But that soon fades into insignificance as the power increases over an industry or a trade or a community or a city government.

You have had eloquent testimony here before this committee as to how the evil effects of the closed-shop conditions of the past continue in the wasteful and restrictive practices of today after 18 months of a law against such practices. There is a long way yet to go.

But the closed shop is not the agency in itself that performs all these anti-social deeds. It is the generator, the rallying point, the consolidator of that misuse of power we see so evilly exercised against the public interest in jurisdictional strikes, boycotts, featherbedding, resistance to technological improvement. It is the classroom for teaching the disciplines of fear, force, and prejudice, which are manifested in all these pertinent situations we have been describing.

Incidentally, a witness yesterday claimed the closed shop was necessary to

keep Communists out—since otherwise Communists could be expelled from the union and yet retain their jobs. This could just as easily work the other way. A closed-shop union favoring Communists could expel all non-Communists and have them fired.

Another witness has told you how closed-shop unions help keep prices up—and hence minimize competition. You have in mind, I am sure, the plain truth that a businessman could get done through this type of union arrangement what he would be put in jail for doing directly.

7. *Mass picketing and violence.*—General Electric is very proud of its comparatively peaceful union relations history. However, even our employees have had some mass-picketing troubles.

At Schenectady in 1946 our research scientists, our salaried engineers and payroll people—innocent bystanders—not members of the union on strike and not even included in the bargaining unit—were forcibly prevented by mass picketing and violence from engaging in activities of immediate and long-range benefits to the employees. This was in defiance of a court order which the Schenectady police force said they could not enforce.

At Lexington, Ky., in 1948, there was abusive mass picketing of the plant and employees' homes, dousing with skunk oil, smashed cars, cut telephone wires, acid shot at girl employees, tear gas thrown in a crowded bus, roughing up by imported pickets—all in an attempt to gain union recognition by force instead of through an NLRB election. Here, as in the New York and New Jersey truck cases and countless others, we witness threats of violence from self-appointed private union "police" who, in full view of and in defiance of uniformed public police, assert their superpower over city, State, and Nation as well as just over management and employees. Since the Federal Government has aided the growth of these unions to powerful giant size, and since local police are proving less and less able to cope with the situations described, the Federal law should provide employees, management, and public with relief from such violence.

8. *Free speech.*—We believe the provision of the present act is wise and should be retained. Prior to the present law an employer's right to free speech was severely curtailed by the way the Board interpreted the former law. Even though no threats of reprisal or promises of benefits were held out, an employer's expression of views with regard to the union was so often held to be a violation of the law that most employers were afraid to open their mouths at all.

Consequently, in many cases the unions felt free to abuse their own privilege of free speech without any fear of having their story contradicted by the employer. Of course, neither side should be permitted to make unfair promises of benefits or threats of reprisal. But the employee is entitled to hear both sides speak up in order that he may freely judge and exercise an informed choice.

You are familiar with the doubts cast on this subject by some NLRB interpretations under the Wagner Act. It took considerable courage for us—in some situations where our employees were being misinformed—to speak up. But we simply felt we would be a party to this deception if, knowing the truth, we did not tell it to our employees.

But under the pressure of union threats, and of the one-sided administration of the one-sided Wagner Act, most employers were very understandably persuaded as to the prudence of keeping still. In certain organizing campaigns we have had our employees report to us that union organizers had threatened them with the choice of either "paying a moderate initiation fee now or if they didn't join now, a very large initiation fee later," promising the employees that all of them would be "forced to join the union" as soon as the organizing campaign was completed. We have also experienced the wildest form of misstatements being made in the course of a union organizing campaign and a most unwarranted type of promise as to benefits the union was going to obtain. We think an employer should feel perfectly free to speak without fear of having an unfair labor practice lodged against him so long as he doesn't step over the bounds of propriety.

Free speech doesn't have to be legislated out of existence. It can be "intimidated" or "hinted" or "indicated" or "nudged" out of existence by a hostile Government administration. To a large extent this had already happened here in America so far as the employer speaking up in union matters was concerned.

Our citizens need positive declaration by government in the form of a clear law that the right of free speech applies in the management-union relations field as elsewhere.

And incidentally, if employers could be encouraged to speak up as to what they believe to be the truth not only in organization matters but on all the issues,

and on the basic economics back of the issues, I sincerely believe the discussion thereby generated would fast lead not only to a more sober understanding of the facts but to a growing area of voluntary agreement. Also, I believe it would bring genuine comfort to many sincere union leaders and many leaders in public life. Too often now both find themselves doing what they really believe to be unsound just because they feel like the folks down the line or back home would not understand if the sound things were done.

9. *Mutual responsibility of employers and unions.*—Since enactment of the present laws we feel we have experienced a noticeable change in the sense of genuine responsibility exhibited by many of the forty-odd unions with which General Electric deals. This change is evident both at the bargaining table and in subsequent conduct. We believe this new sense of responsibility derives from at least four features of the present law:

(1) Both sides are required to bargain in good faith.

(2) Either side can file unfair labor practice charges with the NLRB in the case of abuse.

(3) Both can sue or be sued in Federal court for breach of contract obligations.

(4) Both are now responsible under normal rules of agency for the acts of their agents.

We have had numerous instances of contract violations which have been quickly and fairly settled in good faith by union leaders under the influence of the present law. Neither side, of course, wants to resort to legal weapons in their relations to each other, but it is surprising how the availability of adequate remedies under a fair law helps people act sensibly in the labor field as in the commercial and other fields. We urge the retention of the present provisions in any new law.

10. *Political contributions.*—Any restrictions on political contributions, we believe, should apply equally to employers and unions. Employers and unions alike should be forbidden to use other than voluntary means to raise money for political purposes.

The present law, of course, permits unions to solicit voluntary contributions through subsidiary union organizations. We think this is perfectly proper since an individual making such a contribution is reasonably sure that his money will be used in accordance with his own personal political wishes. The present law, however, prohibits direct contributions out of the union treasury which, of course, constitutes an assessment upon each and every member of the union regardless of his political beliefs and of his personal desire or lack of it to contribute to a political campaign.

11. *Separation of functions of advocate and judge.*—The Department of Labor—in theory and practice—is the advocate of the unions. The law creating the Department required that. In practice it was found not the proper home for the Conciliation Service. To be sure a given individual as Secretary of Labor or as head of the Conciliation Service could make a difference in degree either way. But it would be only in degree. Human nature dictates that an impartial tribunal cannot exist as the agent of an interested party. Although we have had no occasion to call on the Conciliation Service, we believe strongly it should retain independent status.

Likewise, we believe the counsel and the Board should be kept separate—and for the same reasons. Here again we believe it goes against all human experience to try to have an interested advocate be at the same time an impartial judge.

12. *Exemption of supervisors.*—As representatives of management responsible for production and shop discipline, supervisory employees who join a union are put in the untenable position of attempting to serve two masters.

Supervisors are management. If they are unionized their unions will—as shown in the congressional hearings conducted a couple of years ago—become associated with, collaborate with, and even be dominated by, the unions representing the working force that they are supposed to lead and manage. The scales tend to fall out of balance. The spirit of management goes and the entire operation becomes inefficient. The foremen tend to become simply another group of workers, instead of a true part of management. The union may discipline, fine, suspend, expel—and under the old form of union shop—actually fire these men from their jobs for merely doing their work properly and carrying out the orders issued to them by the employer.

In the debates at the time that the present law was adopted, the situation was aptly summarized, as follows:

“* * * when the foremen unionize, even in a union that claims to be independent of the union of the rank and file, they are subject to influence and

control by the rank-and-file union, and, instead of their bossing the rank and file, the rank and file bosses them. The evidence shows that rank-and-file unions have done much of the actual organizing of foremen, even when the foremen's union professes to be 'independent.' Without any question, this is why the unions seek to organize the foremen.

* * * * *

"The evidence further shows that rank-and-file unions tell the foremen's union when the foremen may strike and when they may not, what duties the foremen may do and what ones they may not, what plants the foremen's union may organize and what ones it may not. It shows that rank-and-file unions have helped foremen's unions, not for the benefit of the foremen, but for the benefit of the rank and file, at the expense of the foreman's fidelity in doing his duties."

Foremen and other supervisors—who are all a vital part of management—cannot fairly do their job if they are subject to the cross-fire pressures of conflicting interests. I think the testimony before this committee 2 years ago amply bears this out. I urge that the present provisions as to bargaining with supervisory unions be retained in the law.

A good law—despite any impressions you may have obtained from my testimony thus far, we are not here to defend each and every provision of the Taft-Hartley Act as such. We believe an objective fresh appraisal of each of the ingredients of the present Labor-Management Relations Act will indicate that, although it is a good law and contains a great many important advances in the public interest which need to be retained, there is also need for two types of revisions.

First of all, careful attention should be given to any specific instances in which the law is claimed to have operated unfairly against unions, employees, employers, or the public.

Secondly, careful attention should be given to those instances in which the present law needs to be strengthened, in order to prevent such abuses brought to light in this testimony, which are not adequately provided for under the present law. The law should provide better protection against violent and coercive mass picketing and against monopolistic practices which can be effectuated through the use of secondary boycotts, closed shops, jurisdictional strikes, and the like. I have already briefly referred to some of our own direct experiences in this latter area, and will be glad, at your pleasure, to discuss them further.

ADDITIONAL INFORMATION AS TO GENERAL ELECTRIC EXPERIENCE INDICATING NEEDS IN LABOR LAW

SCHENECTADY (N. Y.) LABORATORY

Last year while building a new research laboratory at Schenectady, General Electric suffered a jurisdictional strike coupled with a secondary boycott resulting from a dispute between the IBEW and the independent Empire State Telephone Union over whose job it was to install the telephone cables. This unique laboratory was designed for research in microwaves for the United States Navy, the development of a 300,000,000-volt synchrotron for the Navy and exploration in the fields of television, nuclear physics, X-rays, and many other projects under Government contract or for commercial or general scientific use.

Briefly, George Fuller & Co., the general contractor, subcontracted the electrical installation to J. Livingston & Co. When the telephone cables were to be laid, the IBEW threatened J. Livingston & Co. with a walk-out unless the New York Telephone Co. permitted IBEW men to install the telephone cables, thereby replacing the telephone company's own employees who belonged to the Empire State Union. The telephone employees stated they would not connect the telephones if the electrical union pulled the cables. General Electric, as the innocent bystander, attempted amicably, but without avail, to settle this jurisdictional dispute.

This problem which arose in February was not resolved until August when the telephone company trucks came on the grounds to install the cable despite the IBEW threat. On the same day that the phone company started installations of the cables, 46 of the IBEW electrical workers walked off the job, leaving 20 workers and 8 foremen. The next morning, only 18 electrical workers reported for work. These consisted of seven foremen, six helpers, and five electricians. Three of the electricians were maintenance men—that is, not contributing to an act of construction but merely attending operating installations.

On Wednesday, the day after the full force of electrical workers did not report, General Electric filed with the National Labor Relations Board an unfair labor practice complaint charging that the IBEW had called a jurisdictional strike to force the assignment of work to its members. Two days later, the NLRB examiner arrived in Schenectady to conduct his initial investigation. On that very same day, the international representative of the IBEW came to General Electric expressing his dismay and surprise that the company had filed an unfair labor practice charge, and offering to call off the strike if it would withdraw the charge. When the IBEW men returned to the job the following Monday morning, the charge was withdrawn with the permission of the NLRB.

Had there been no law to provide relief from such actions, irreparable damage might have been done not only to innocent bystanders but to the national well-being.

ELECTRONICS PARK, SYRACUSE, N. Y.

In November 1946 in Syracuse, N. Y., during the construction of General Electric's Electronics Park, an earlier dispute than the one described above, arose between the Empire State Union, whose members are employees of the New York Telephone Co., and Local B43, IBEW. As in the later Schenectady case, the dispute was over which union was to do the pulling of wire and cable for telephone service between the various buildings at Electronics Park.

Until the dispute was settled by a compromise arrangement between the two unions, the IBEW union picketed the construction work and the electrical workers refused to continue on their jobs. At this time there was no remedy available to those who, as innocent bystanders, might be damaged by the delay to this large construction project. In this case fortunately the dispute was settled after a few days.

OWENSBORO (KY.) PLANT

A typical true secondary boycott was threatened several weeks ago at our fluorescent tubing plant at Owensboro, Ky., and as far as we know, this threat is still over our heads while these deliberations are going on in this room today.

At Owensboro, the company found it necessary to contract for some electrical work to be done in order to complete some construction. As a matter of good practice, we let the contract out to a local electrical contractor. At the time of letting out the contract, we had no knowledge, of course, as to whether or not he used union or nonunion men, but as it turned out, this particular contractor used nonunion men.

On Thursday afternoon, January 20, 1949, an IBEW representative told General Electric's superintendent of building, maintenance, and grounds that it had an unfair contractor working on an electrical installation and that if it did not remove him there would be trouble.

General Electric told the IBEW that its contracts are let on a price basis and it does not check the contractor to see whether union or nonunion labor was used. General Electric pointed out that the real dispute was with the contractor and not with the company.

Later that evening the IBEW indicated that if the electrical contractor was not removed from the job, IBEW would place a picket line around the plant.

On Saturday morning, representatives of local UAW-AFL asked to meet with General Electric. At this meeting the UAW informed the company that the IBEW had notified them that they were going to picket the plant unless the contractor was removed.

On the following Wednesday, nothing having happened in the meantime, a delegation of General Electric employees—not members of the IBEW—requested that the company remove the contractor from the job, as they felt the contractor was unfair because he used nonunion labor, and that it was the duty of unions to stick together.

This group was told that the question of a contractor being union or nonunion was a matter between the union and the contractor, not between the union and the company. The matter is still pending.

SAN DIEGO SERVICE SHOP

General Electric has a service shop in San Diego which is staffed by 12 employees. We were put on the so-called unfair list of the IBEW because our employees were not represented by their union. In February 1947, this situation

came to a head. Our customers were advised by the IBEW that if any motors, etc., were sent to our shop for repair, they would refuse to install them when they were returned. Many of our customers deserted us, and we have steadily lost business since then. In 1948 the IBEW won a representation election and immediately demanded a union shop. A security election was held as required by law, but the union failed to obtain a majority vote approving union security. Since that time the union has apparently dropped the entire matter of bargaining, and our employees are working without a contract. Although our employees are IBEW members, the shop is still on the unfair list. The union has such a strong domination over the San Diego business community that we have never been able to make any headway against the boycott, and accordingly, we are planning to close the service shop as of April 1, 1949.

NEWARK MEDICAL CENTER, NEWARK, N. J.

On this job a competitor, Kelly-Kett, was installing a medical X-ray unit and General Electric X-ray was installing a therapy unit. Kelly-Kett began their installation about the 1st of February. Union electricians on the job took the position that the installation work should be performed by their men. Kelly-Kett hired union labor to work under the direction of their servicemen. Extra cost was borne by the hospital.

General Electric X-ray was prepared to install their equipment on February 10. The union insisted the installation work be handled by union men but finally agreed with X-ray to allow our servicemen to work with two union men until the job was completed. Extra cost of \$150 was borne by the hospital.

UNIVERSITY OF ROCHESTER, ROCHESTER, N. Y.

When equipment was to be installed in 1942, the union demanded that all installation work should be performed by union men. Company was forced to accept arrangement of using union men working under supervision of one of our servicemen. Extra cost to the university, \$500.

In 1943 a second installation for the Atomic Energy Commission was installed at the University of Rochester. The union position and arrangements were identical with the previous case and extra cost to the Atomic Energy Commission was \$500.

NEW YORK TIMES BUILDING, NEW YORK CITY

On January 5, 1948, the company began installation of X-ray equipment in the medical department of the New York Times Building. Representatives of Local 3, IBEW, demanded that the work be performed by union men. The company agreed to use union electricians under the supervision of our servicemen. Extra cost to New York Times, \$400.

MEMORIAL HOSPITAL, NEW YORK CITY, JULY 1948

The union threatened that unless their men were allowed to install X-ray equipment all electricians and other tradesmen working on construction in the hospital would walk off the job. Ultimate arrangement was that our servicemen installed equipment and one union man sat by for a period of 1 week. Total cost of \$150 borne by hospital.

FRESNO, AUGUST 1948

Local 6, IBEW, refused for 2-week period to complete wiring required for X-ray installation in office of a Dr. Ould. Business Agent Joseph How told Johnson, company serviceman, that electricians would not complete job unless installation was performed by union labor. The company proceeded with assembly work of equipment. Johnson, told a second time by one of the electricians, that unless he joined IBEW union would force him also to stop work. After 2 weeks the union agreed with contractor to complete wiring work.

FRESNO, DECEMBER 9, 1948

Control panel and transformer were being installed to replace existing units in office of Dr. Hasiba. Equipment had been assembled and was ready for wiring when Joseph How, business agent, local 6, IBEW, appeared on job and asked our serviceman, J. P. Lucas, for his card. Upon learning Lucas was a

nonunion man How pulled electricians and other tradesmen doing work on the doctor's office off the job. Subsequently union electricians under the supervision of Lucas completed the job. After wiring completed, Lucas performed testing work. Extra cost to doctor, \$200.

ST. MARY'S HOSPITAL, ROCHESTER, N. Y., 1948

Union threatened that all construction men working on the hospital would walk off the job unless installation of X-ray equipment handled by union electricians. Ultimate arrangement was that our servicemen worked along with union electricians. Extra cost to hospital, \$600.

TUMOR INSTITUTE, CHICAGO, 1945

IBEW and Teamsters Union demanded that all installation work be handled by members of their two unions. G. E. X-ray's serviceman served in the capacity of supervisor on the job. Extra cost borne by institute, \$200.

PRESBYTERIAN HOSPITAL, CHICAGO, 1946

Local 134, IBEW, contended that the installation of X-ray equipment should be made by members of their union. One of our servicemen served as supervisor on the job. Total value of equipment installed was \$25,000. Extra cost of installation borne by the hospital was \$2,000.

GARMENT INDUSTRY MEDICAL CENTER, ST. LOUIS, OCTOBER 3, 1947

IBEW-AFL contended that all installation work should be handled by union men. Company representative served as supervisor. Extra cost borne by medical center, \$100.

MURRAY BODY CORP., DETROIT, FEBRUARY 1949

UAW-CIO demanded that installation of X-ray equipment be handled by members of their union. Installation was made under the supervision of a company serviceman. Total value of installing \$10,000. Extra cost borne by the company, \$250.

JERSEY CITY MEDICAL CENTER, JERSEY CITY, N. J., JANUARY 1949

Local 164, IBEW-AFL demanded that all installation work should be handled by union men. At a meeting with city officials it was agreed to allow company servicemen to perform assembly, all wiring to outlets and testing of equipment providing union men moved equipment from receiving platform to hospital rooms and uncrated equipment. On February 11 the company agreed to this arrangement. The extra cost of approximately \$400 to be borne by the company.

SHERMAN CREEK TURBINE

In the fall of 1947 when General Electric was installing a turbine for the Consolidated Edison Co. at the Sherman Creek station, the local union of steamfitters and plumbers in New York claimed that certain piping which had been done by the factory was a part of their work. The union took the position that this piping work would have to be recut by them and re-installed by them or the company could make a payment of approximately \$700 which represented the amount of work in question. If the General Electric Co. made an issue of the matter that work on the project would probably have been stopped, thereby causing serious inconvenience to the Edison Co., which was in serious need of this turbine to cure an immediate power shortage.

Because of the customer's emergency need, the amount in question was paid to the union in order to not risk a strike and boycott.

WASHINGTON MEDICAL CLINIC

During 1948, the medical clinic of Drs. Crover, Christie, and Merritt, radiologists, purchased X-ray equipment for installation in their new additional quarters in the Columbia Medical Building Annex, Washington, D. C.

This equipment was purchased by them for a price which included installation. Other building renovations were being made at the time installation of the X-ray equipment was going on, and the union threatened to boycott and strike the

entire job unless permitted to do the work of also installing the X-ray equipment. Because of pressure exerted on the company by the customer, to avoid a serious delay in installation, and a boycott of the entire renovation job and their willingness to assume the extra cost, the job was done by the union.

This procedure cost the purchasers approximately \$4,000 more than they had contracted to pay. It was agreed in the purchase contract that in the event the manufacturer's personnel was not allowed to make the installation, the purchasers would defray the costs of hiring outside labor.

HOUSE OF MAGIC SHOW

The General Electric educational demonstration "House of Magic" was scheduled to be presented in the Municipal Auditorium, Savannah, Ga., on January 18, 1948. The show was sponsored by the Savannah Electric & Power Co., and it was being shown to the general public with no admission charge whatsoever.

Representatives of the International Association of Theatrical Stage Employees, Local 320, an AFL affiliate, had approached an official of the Savannah Electric & Power Co. before the arrival of our traveling unit, and had insisted that IATSE men be employed in preparing and presenting the demonstrations. During the course of the conversation, the business agent for local 320 asserted that he had been informed by New York City headquarters to be on the lookout for the "House of Magic," and had been supplied from some source with a copy of our schedule. Upon representation by our lecturer that this was a free demonstration for the public, that it was educational as well as entertaining, that the city was granting free use of its municipal auditorium for the occasion, and that there was no need for assistance, the business agent called his New York union headquarters and obtained its confirmation that—free or not—this was a traveling show and union personnel were to be employed in connection with it. The threat indicated if these demands were not met that the auditorium would be picketed.

In order to avoid picketing, the Savannah Electric & Power Co. agreed to pay for the cost of the un-needed union personnel. This extra cost amounted to \$57. The men employed did little work. In the case of one union man absolutely no work was done except to "stand by" during the period of the show.

TRUCK STRIKE, NEW YORK CITY, 1948

During the 1948 truck strike in New York, our trucks going on the regular daily run from a light-bulb plant in Newark to our wholesale supply warehouses in New York were stopped at the tunnel and warned to turn around and go back "or else."

To get fast overnight service, we carry our own mail between Schenectady and New York City. In this case, after some preliminary threats, a police escort was furnished to bring the mail truck through the area affected in safety.

SCHENECTADY, N. Y., MASS PICKETING AND VIOLENCE

In Schenectady, N. Y., during the course of a strike in 1946, salaried workers, not members of the union on strike and not even included in the bargaining unit, were forcibly prevented from going to work by picketing and violence, in defiance of a court order which the Schenectady police force said they could not enforce.

LEXINGTON, KY., MASS PICKETING AND VIOLENCE

In Lexington, Ky., a strike was called in 1948 by the United Electrical Workers (CIO) to force the company to recognize the U. E. without an NLRB election and certification as the representative of employees at the new G. E. lamp plant in Lexington.

Mass picketing tactics and violence—inspired for the most part by out-of-State "toughs"—were used to coerce and frighten nonstrikers. Some nonstriking workers suffered abusive picketing of their homes. Skunk oil was put on a radiator in a YWCA dormitory where a number of nonstriking girls lived. Rocks were thrown at truck drivers. Roofing nails were strewn in the plant driveway. Skunk essence was doused on a G. E. car. One girl's windshield was smashed. Arson was attempted on the garage of a nonstriker, and his windshield was smashed while he was trying to clean up the debris. Telephone wires leading to the plant were cut. A county policeman reported that acid

thrown on him at the picket lines rotted his clothing and stung his eyes. Girls going through the lines said that their own clothing had been damaged by a liquid shot from pickets' water guns. Sugar was put in the gasoline tank of one girl's car. A night-shift worker had his brake lines cut while his car was parked on company property.

On April 27, tear gas was shot into a crowded bus carrying 35 employees to work at the lamp plant, as well as 10 other passengers. The tear gas was squirted from a pocket container shaped like a fountain pen by a man dressed in coveralls who stopped the bus as if to board it.

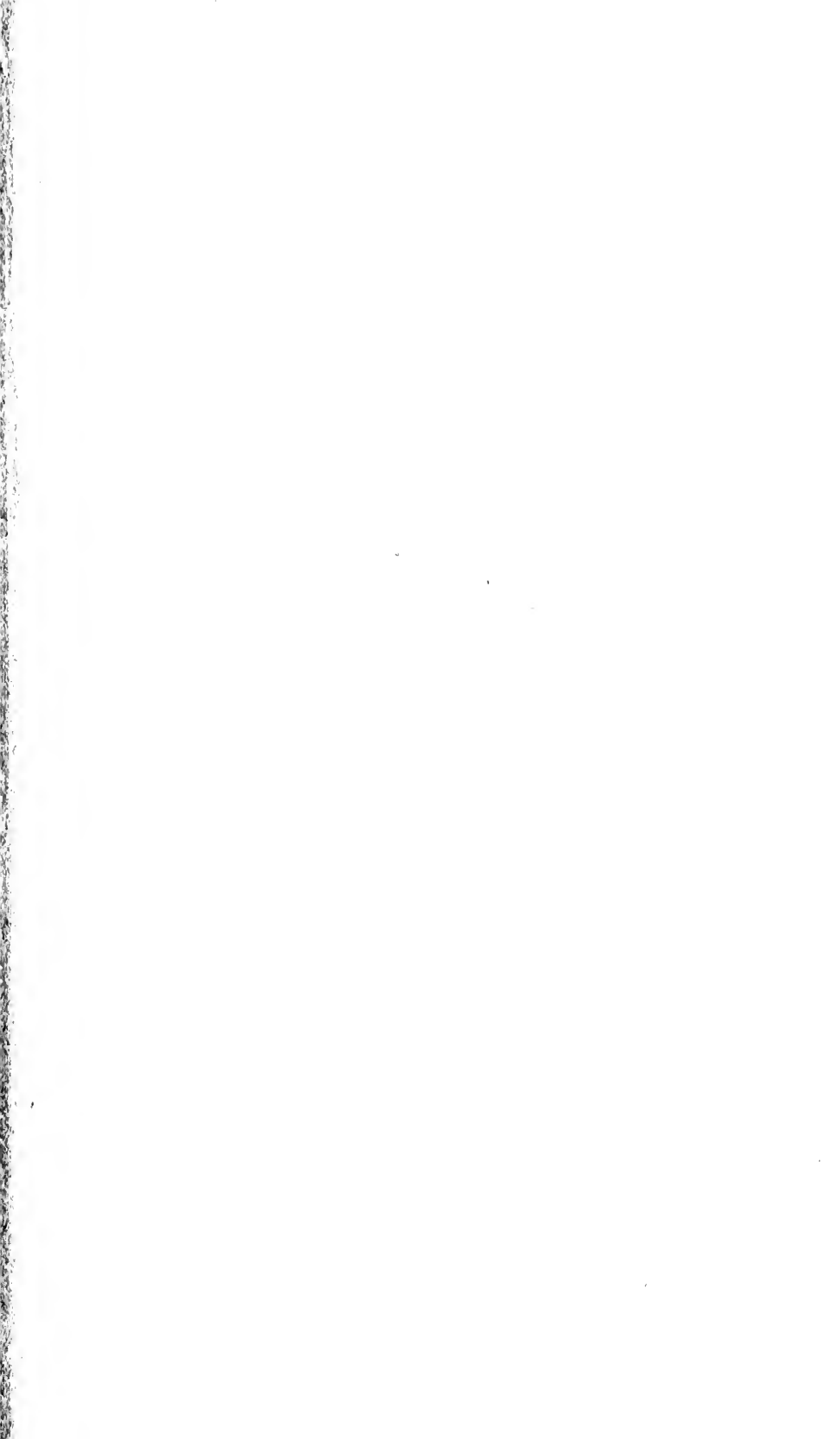
The first 5 weeks of the strike saw two-score arrests of imported "goons" and strikers. Jail sentences totaling 110 days and fines totaling \$402 had been meted out in 11 cases. Others were put under bond to keep the peace.

The CHAIRMAN. We stand in recess until 9:30 tomorrow morning.

(Whereupon, at 5:45 p. m., an adjournment was taken until 9:30 a. m., Friday, February 18, 1949.)

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